

# **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**



## **PROPOSED CHANGES TO**

**7 AAC 28 - Community Grant-in-Aid Program for Alcoholism  
7 AAC 29 - Uniform Alcoholism and Intoxication Treatment  
7 AAC 33 - Methadone Programs  
7 AAC 47 - General Relief Assisted Living Home Care  
7 AAC 71 - Community Mental Health Services  
7 AAC 72 - Civil Commitment  
7 AAC 75 - Assisted Living Homes  
7 AAC 80 - Fees for Department Services**

**AND**

## **DEPARTMENT OF ADMINISTRATION**

**PROPOSED REPEAL OF 2 AAC 42 (Assisted Living Homes)**



## **PUBLIC REVIEW DRAFT**

**October 16, 2003**

**PUBLIC COMMENT PERIOD ENDS  
DECEMBER 1, 2003  
SEE PUBLIC NOTICE FOR DETAILS**

**Title 2. Administration.**

2 AAC 42 is repealed:

**Chapter 42. Assisted Living Homes.**

**Article 1. Standards for Assisted Living Homes.**

**2 AAC 42.010. Assisted living homes regulations adopted by reference.** Repealed. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

**Article 2. Financial Assistance for the Protection of Vulnerable Adults in Assisted Living Homes.**

**2 AAC 42.200. Applicability.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.205. Assisted living care.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.210. Assisted living home.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.215. Eligible individuals.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.220. Income.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.222. Income exclusions.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.225. Resources.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.227. Resource exclusions.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.228. Disposal of excess resources.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.230. Spousal income and resources.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.233. Income computation.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.234. Definitions for terms used in 2 AAC 42.220 – 2 AAC 42.233.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.235. Concurrent applications; reimbursement to department by resident or by assisted living home.** Repealed. (Eff. 6/28/2002, Register 162)

**2 AAC 42.240. Alternative financial assistance.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.245. Financial assistance application.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.250. Eligibility determination and placement.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.255. Availability of hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.260. Report of change.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.265. Review of eligibility.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.270. Assisted living home grant agreement.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.275. Payment by individual.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.280. Payment by department.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.285. Minimum daily reimbursement rates.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.290. Augmented rates.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.295. Services required to be provided by licensed assisted living homes.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.296. Absence or discharge.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.298. Emergency placement.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.299. Waiver of requirement of 2 AAC 42.200 – 2 AAC 42.298.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

### **Article 3. Hearing Procedures.**

**2 AAC 42.300. Applicability.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.305. Opportunity for hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.310. Request for hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.315. Time limit on availability of hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.320. Notice of changes in the law.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.325. Notice of proposed agency action.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.330. Contents of notice.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 43.335. Time and place of hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.340. Group hearings.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.345. Denial or dismissal of hearing.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.350. Hearing assistance.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.355. Conduct of hearings.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.360. Medical evidence.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.365. Hearing officer.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.370. Decision of hearing officer.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.375. Continuation of assistance; liability.** Repealed. (Eff. 6/28/2002, Register 162)

**2 AAC 42.380. Retroactive assistance.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.385. Appeal to the director; notice of appeal decision.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**2 AAC 42.390. Decisions public.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

#### **Article 4. General Provisions.**

**2 AAC 42.400. Definitions.** Repealed. (Eff. 6/28/2002, Register 162; repealed \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Title 7. Health and Social Services.**

**Part 2. Public Health.**

**Chapter 28. Community Grant-in-Aid Program for Alcoholism.**

The title of Article 2 is amended to read:

**Article 2. Alaska Automated Information Management [INFORMATION] System  
(AKAIMS) for Alcohol and Drug Abuse Programs.**

7 AAC 28.150 is amended to read:

**7 AAC 28.150. Purpose of Alaska automated information management [INFORMATION] system (AKAIMS) [(MIS)].** In order to meet the accountability requirements **of** [UNDER] AS 47.30.477, **AS 47.37.030** [47.37.030], and 47.37.040 in an efficient and reliable manner, **the Alaska Automated Information Management System (AKAIMS)** [AN AUTOMATED MANAGEMENT INFORMATION SYSTEM (MIS)] is a necessary major part of the **department's** overall research and evaluation system [OF THE OFFICE]. The intent of **AKAIMS** [THE MIS] is to collect, process, and provide to program administrators and staff relevant **programmatic** [PROGRAMATIC] and client information, as well as to provide **programmatic** [PROGRAMATIC] information to the public and the legislature. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477 AS 47.37.030(6) AS 47.37.040(9)

7 AAC 28.200 is amended to read:

**7 AAC 28.200. Participation in AKAIMS [MANAGEMENT INFORMATION SYSTEM].** (a) A grantee that receives money from the department under AS 47.30.475 or [THE OFFICE UNDER] AS 47.37.030 [,] shall provide data to the **department electronically** [OFFICE] through **AKAIMS** [THE MANAGEMENT INFORMATION SYSTEM. THE GRANTEE SHALL TRANSMIT DATA TO THE OFFICE ON FORMS PROVIDED BY THE DEPARTMENT]. Data required includes the number of clients served, the name and qualification of each staff member, the hours of staff time spent in treatment of clients, bed use, and program activities.

(b) Other user organizations may participate in AKAIMS [THE MIS], subject to department [THE] approval [OF THE DEPARTMENT]. A formal memorandum of agreement must be developed between the department [OFFICE] and the other user organization before participation by that organization in AKAIMS [THE MIS]. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477 AS 47.37.030(6) AS 47.37.040(9)

7 AAC 28.210(a) and (c) are amended to read:

**7 AAC 28.210. Client identifying information.** (a) No grantee or other user organization may transmit client identifying information through AKAIMS [THE MIS]. If a grantee or other user organization transmits client identifying information through AKAIMS [THE MIS], the department [OFFICE] will immediately return the entire data batch to the grantee or other user organization. Except as provided in (c) of this section, the department [OFFICE] will not copy, encode, or otherwise retain client identifying information on AKAIMS [THE MIS].

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(c) The department [OFFICE] will not place or retain client identifying information on AKAIMS [IN THE MIS] unless it has in its possession an authorization signed by the client. The authorization must conform to the requirements of 42 C.F.R. 2.31 – 2.67 [2.40-1].

(Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477

7 AAC 28.220 is amended to read:

**7 AAC 28.220. Disclosure of information.** The department [OFFICE] will retain exclusive control and custody of information collected through AKAIMS [THE MIS]. Except as provided in 7 AAC 28.230 and this section, a disclosure of information collected through AKAIMS [THE MIS] may be made only in the form of aggregate data. The department [OFFICE] will provide a grantee or other user organization with a complete, individually distinct listing of individual computer records for use in error correction. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477

7 AAC 28.230 is amended to read:

**7 AAC 28.230. Access to computer files.** (a) The department [OFFICE] will permit access to AKAIMS [MIS] computer files only to

(1) department [OFFICE] quality control staff;

(2) department computer staff when the department [COORDINATOR OF THE OFFICE] determines that access is necessary for operation of AKAIMS [THE MIS];

(3) Department of Administration computer staff when the department [COORDINATOR] determines that access is necessary for operation of AKAIMS [THE MIS];  
or

(4) contractors hired by the department [OFFICE] to perform maintenance, upgrading, or additions to AKAIMS [THE MIS] computer software or hardware.

(b) The department [COORDINATOR] will authorize any access in writing. A person who is permitted access to AKAIMS [MIS] computer files may not disclose AKAIMS [MIS] information to anyone other than a department employee [EMPLOYEES OF THE OFFICE]. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477

7 AAC 28.240 is amended to read:

**7 AAC 28.240. AKAIMS [MIS] record retention.** (a) The department [OFFICE] will retain for four months AKAIMS [MIS] data documents submitted to the department [OFFICE] by a grantee or other user organization. The department [OFFICE] will then destroy data documents.

(b) The department [OFFICE] will retain AKAIMS [MIS] data [ON MAGNETIC STORAGE DEVICES, SUCH AS DISCS OR TAPES,] in readily accessible electronic format, as long as is necessary to produce aggregate data for research, audit, or informational purposes.

(c) The **department may** [OFFICE WILL, IN ITS DISCRETION,] retain data on a client of a grantee or other user organization for five years after the client has completed treatment. If a client has multiple admissions to a program, the data pertaining to treatment completed less than five years previously will be retained. The **department may** [OFFICE WILL, IN ITS DISCRETION,] retain statistical data files of aggregate data for 10 years. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477

7 AAC 28.250 is amended to read:

**7 AAC 28.250. Security for written and computerized records.** (a) The **department** [OFFICE] will, and a grantee or former grantee shall, maintain [ALL] written or computerized records that are subject to 7 AAC 28.200 - 7 AAC 28.900 in a secure room, locked file cabinet, safe, or other similar secure place when not in use.

(b) The **department** [OFFICE] will, and a grantee shall, keep the records in a manner that will permit the review of financial and administrative information with minimal disclosure of clinical information and without disclosure of patient identifying information except when necessary for audit verification by the **department** [OFFICE]. (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.477

### **Article 3. General Provisions.**

7 AAC 28.900(3) is amended, (5) is repealed, and a new paragraph is added, as follows:

**NOTE:** When the department adopts changes to the following section, it plans to repeal and readopt this section to retain the alphabetical order of the definitions.

#### **7 AAC 28.900. Definitions.** In this chapter

(3) "grantee" means a nonprofit corporation or a political subdivision of the state, or combination of the two, **that** [WHICH] receives money from the department under AS 47.30.475 or [FROM THE OFFICE UNDER] AS 47.37.030;

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(5) repealed \_\_\_\_/\_\_\_\_/200\_\_. ["OFFICE" MEANS THE OFFICE OF ALCOHOLISM AND DRUG ABUSE IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;]

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**(7) “Advisory Board” means the Advisory Board on Alcoholism and Drug Abuse.** (Eff. 6/15/85, Register 94; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:     AS 47.30.475             AS 47.30.477

**Chapter 29. Uniform Alcoholism and Intoxication Treatment.**

**Article 1. Standards for Facilities and Programs.**

7 AAC 29.010(a) and (b) are amended to read:

**7 AAC 29.010. Application of standards.** (a) The provisions of this chapter apply to [ALL] alcohol and drug abuse facilities and programs seeking certification in this state unless a provision is waived by the department [DIVISION] under 7 AAC 29.050, or the facility or program is exempt under (c) of this section.

(b) An alcohol or drug abuse treatment facility or program certified by the Joint Commission of Accreditation of Hospital Organization (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF) may apply to the department [DIVISION] for a waiver under 7 AAC 29.050 of the requirements of this chapter, based on its JCAHO or CARF certification.

(Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

7 AAC 29.020 is amended to read:

**7 AAC 29.020. Approval of facilities and programs.** In order to be approved by the department [DIVISION] as a public or private treatment facility or program, an agency subject to this chapter must meet the standards adopted by reference in 7 AAC 29.030 or qualify for the exemption in 7 AAC 29.010(c). (Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

**7 AAC 29.030. Adoption of standards by reference.** Component 1 through 8 of the [1974] *Accreditation Manual for Alcoholism Programs* of the Joint Commission on Accreditation of Hospitals, **as revised from time to time**, are adopted by reference as the standards for management and treatment in the private and public treatment facilities or programs to which this chapter applies. (Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

The editor's note for 7 AAC 29.030 is amended to read:

**Editor's note:** A copy of the manual incorporated by reference in 7 AAC 29.030 is available from the Department of Health and Social Services, **Division of Behavioral Health** [DIVISION OF ALCOHOLISM AND DRUG ABUSE], P.O. Box **110620** [110607], Juneau, Alaska **99811-0620** [99811-0607].

7 AAC 29.035(a) is amended to read:

**7 AAC 29.035. Certificate.** (a) The **department** [DIVISION] will issue a certificate to an agency that meets the requirements of this chapter. An initial certificate will be issued for a period not to exceed one year. A renewal of a certificate will be issued for a period of two years.

(Eff. 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

7 AAC 29.040 is amended to read:

**7 AAC 29.040. Inspections and production of materials.** Before the expiration of a [THE] certificate issued under this chapter, the department [DIVISION] will inspect a facility or program subject to this chapter. The department [DIVISION] will conduct an inspection of a facility or program to determine if that facility or program meets the requirements of this chapter. A facility or program shall produce at the department's request [OF THE DIVISION] any document, record, or other written material that the facility or program is required to maintain, including client records. In addition, when requested by the department [DIVISION], each facility or program shall produce any evidence that [WHICH] demonstrates the facility's or program's compliance with this chapter. (Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

7 AAC 29.050 is amended to read:

**7 AAC 29.050. Waivers.** (a) The department may [DIVISION WILL, IN ITS DISCRETION,] waive a requirement of this chapter if the department [DIVISION] finds that an acceptable alternative method to satisfy the requirement is established and the well-being of clients is reasonably assured.

(b) The agency requesting the waiver shall ensure that a waiver involving fire safety, environmental health, or other municipal or state requirements is reviewed by the appropriate municipal or state authorities before the department [DIVISION] makes a determination to waive a requirement of this chapter.

(c) The agency requesting the waiver shall ensure that an application for a waiver is made in writing to the department [DIVISION] and includes [MUST INCLUDE]

(1) an explanation of the reasons why the requirement of this chapter cannot be satisfied; and

(2) a description of the alternative method, including certification by the Joint Commission of Accreditation of Hospital Organization (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF), proposed to satisfy the requirement for which the waiver is requested.

(d) The **department** [DIVISION] will respond in writing to a waiver request. (Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

7 AAC 29.060 is amended to read:

**7 AAC 29.060. Denial, suspension, or revocation.** (a) If the **department** [DIVISION] determines that an applicant does not comply with this chapter, the **department** [DIVISION] will deny, suspend, or revoke a certificate issued under this chapter.

(b) The **department** [DIVISION] will initiate proceedings under (a) of this section, by service of an accusation or statement of issues in accordance with AS 44.62. The **department** [DIVISION] will conduct those proceedings in accordance with AS 44.62.330 - 44.62.650. If the health, safety, or well-being of a client is not in jeopardy, the **department** [DIVISION] action takes effect upon the final administrative decision of the **department** [DIVISION]. If the health, safety, or well-being of any client is in jeopardy, the suspension or revocation of the certificate is effective immediately upon the issuance of a written notice by the **department** [DIVISION]

(c) If a certificate is denied or revoked, the length of time before an agency may reapply, if any, will be stated in the **department's** final decision [OF THE DIVISION]. (Eff. 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

7 AAC 29.070 is amended to read:

**7 AAC 29.070. Right to appeal and hearing.** Within 15 days after the receipt of the notice of suspension or revocation or denial of an initial application or application for renewal, an agency may appeal to the **department** [DIRECTOR OF THE DIVISION] for a hearing under AS 44.62. If the suspension or revocation of a certificate is immediate, a hearing, if requested by the agency, will be scheduled as soon as feasible. (Eff. 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

**Article 2. General Provisions.**

7 AAC 29.900(3) and (4) are repealed:

**7 AAC 29.900. Definitions.** In this chapter, unless the context indicates otherwise,

(3) repealed \_\_\_\_/\_\_\_\_/200\_\_. ["DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF ALCOHOLISM AND DRUG ABUSE;]

(4) repealed \_\_\_\_/\_\_\_\_/200\_\_. ["DIVISION" MEANS THE DIVISION OF ALCOHOLISM AND DRUG ABUSE IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;]

(Eff. 12/4/76, Register 60; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.37.140

**Chapter 33. Methadone Programs.**

7 AAC 33.005(b) and (c) are amended to read:

**7 AAC 33.005. State approval required for methadone programs.**

(b) Approval of methadone maintenance and detoxification treatment programs is for a period of two years. Renewal of the department approval will be provided upon a finding by the department that a program seeking renewal is adhering to all regulations of the department and demonstrates that it is providing effective treatment. The [DIVISION OF ALCOHOLISM AND DRUG ABUSE IN THE] department will inspect an agency subject to **this chapter** [7 AAC 33] before the expiration of the approval certificate to determine if the agency's program and facility meets the requirements of this chapter.

(c) The department **may** [WILL, IN ITS DISCRETION,] revoke its approval of any approved program **that** [WHICH] fails to comply with any statutory requirement or a regulation of the department. The program will be notified in writing and given 30 days to comply. If approval is nevertheless revoked an additional 10 days to close out administration will be granted. (Eff. 10/10/74, Register 51; am 6/2/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 18.05.040 AS 47.37.140

7 AAC 33.095(b) is amended to read:

**7 AAC 33.095. Take-home medication procedures.**

(b) Patients shall **use** [UTILIZE] containers for take-home dosages **that** [WHICH] comply with the special packaging requirements **of 21 C.F.R. \_\_\_\_\_** *(the department will insert the most current applicable federal law when it adopts the amendments to this subsection)* [AS SET FORTH IN 21 C.F.R. 295.3].

(Eff. 10/10/74, Register 51; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 18.05.040

7 AAC 33.105(d) is amended to read:

**7 AAC 33.105. Requirements for methadone preparation, record keeping, and security of stocks.**

(d) Adequate security over stocks of methadone **must** [SHALL] be maintained as required by \_\_\_\_\_ (*the department will insert the most current applicable federal law when it adopts the amendments to this subsection*) [THE FEDERAL GOVERNMENT, AS SET FORTH IN 21 C.F.R. 301.71 - 301.76]. (Eff. 10/10/74, Register 51; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 18.05.040

7 AAC 33.155(b) is amended to read:

**7 AAC 33.155. General provisions.**

(b) Programs shall comply with all applicable regulations of the F.D.A. as published in \_\_\_\_\_ (*the department will insert the most current applicable federal law when it adopts the amendments to this subsection*) [21 C.F.R. 130.44, 130.48, 295.2, and Part 401].

(Eff. 10/10/74, Register 51; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 18.05.040

**Part 3. Public Assistance and Medical Assistance.**

**Chapter 47. General Relief.**

**Article 2. General Relief Assisted Living Home Care.**

7 AAC 47.300(a) is amended and (b) is repealed to read:

**7 AAC 47.300. Applicability.** (a) The department has determined that a need exists among the state's adult population for the availability of nonmedical residential care. **The** [EXCEPT AS PROVIDED IN (B) OF THIS SECTION, THE] purpose of the program described in 7 AAC 47.300 – 7 AAC 47.525 is to provide financial assistance to eligible adults, **including vulnerable adults,** who [ARE LACKING IN ADAPTIVE BEHAVIOR TO THE DEGREE THAT THEY] require the protective oversight of an assisted living home. The program objective is to enable those adults to

(1) obtain the level of care that an individual could receive in the individual's own home from interested friends or relatives; and

(2) live in the least restrictive setting possible.

(b) Repealed \_\_\_\_/\_\_\_\_/200\_\_ [REGULATIONS DEALING WITH FINANCIAL ASSISTANCE FOR THE PROTECTION OF VULNERABLE ADULTS WHO ARE RESIDENTS OF ASSISTED LIVING HOMES LICENSED BY THE DEPARTMENT OF ADMINISTRATION ARE SET OUT IN 2 AAC 42]. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.05.010  
**AS 47.24.011**

**AS 47.24.017**  
AS 47.25.120

AS 47.33.920

7 AAC 47.310 is amended to read:

**7 AAC 47.310. Assisted living care.** Assisted living care is a range of care described in AS 47.33 and 7 AAC 75, that includes more than housing and food service, but does not include continuous nursing or medical care. Assisted living care encompasses 24-hour supportive and protective services in the activities of daily living and in the instrumental activities of daily living for an individual who is 18 years of age or older, as those services are described in that individual's residential services contract executed under AS 47.33.210 [AND ASSISTED LIVING PLAN PREPARED UNDER AS 47.33.210] and assisted living plan prepared under AS 47.33.220 and 47.33.230. The care is provided in a residential environment and encourages independent living to the extent possible for each resident. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.33.120	AS 47.33.230
	<u>AS 47.24.011</u>	AS 47.33.210	AS 47.33.920
	<u>AS 47.24.017</u>	AS 47.25.220	

7 AAC 47.330(4) is repealed and readopted to read:

**7 AAC 47.330. Eligible individuals.** Assistance under 7 AAC 47.300 – 7 AAC 47.525 is available for an individual, including a vulnerable adult,

(4) who has

(A) a disability that is attributable to a severe and persistent mental illness, or to mental retardation, cerebral palsy, epilepsy, autism, or another condition closely related to mental retardation that significantly impairs intellectual functioning and adaptive behavior that includes a significant deficit in the daily living skills that are necessary to function without supervision or support;

(B) a hearing, speech, visual, orthopedic, or other major health impairment that significantly impedes participation in the social, economic, educational, recreational, and other activities generally available to the individual's nonimpaired peers in the community; or

(C) a significant deficit in adaptive behavior in the area of self-care, communication of needs, mobility, or independent living that may be the result of the aging process, a major health impairment, an emotional health disturbance, or alcohol or drug dependence;

(Eff. 11/23/80, Register 76; am 6/18/82, Register 82; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	<u>AS 47.24.017</u>	AS 47.25.130
	<u>AS 47.24.011</u>	AS 47.25.120	AS 47.33.920

7 AAC 47.390(b) is amended to read:

**7 AAC 47.390. General relief assistance application.**

(b) An applicant must be available for an interview at [A DISTRICT OFFICE OF] the department and must furnish evidence that shows eligibility for the assistance. The department may dispense with the personal interview requirement if distance, weather conditions, available transportation, or the applicant's physical or mental condition would make the requirement unduly harsh, and if other reliable evidence is available.

(Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.33.120	AS 47.33.920
	<u>AS 47.24.011</u>	AS 47.33.150	
	<u>AS 47.24.017</u>	AS 47.25.160	

7 AAC 47.400(b) is amended to read:

**7 AAC 47.400. Eligibility determination and placement.**

(b) After consulting with an eligible individual, available family members, a court-appointed representative, or a representative appointed by the individual, the department will assist in selecting an appropriate assisted living home that has available space and that accepts placements under this chapter. An individual who has applied for residential supported living services under 7 AAC 43.1000 – 7 AAC 43.1110 may not be placed in an assisted living home under 7 AAC 47.300 – 7 AAC 47.525 until residential supportive living services have been authorized under 7 AAC 43.1000 – 7 AAC 43.1110, unless care cannot be provided in the individual's home, or in a nursing facility, acute care hospital, or other appropriate facility. The division of vocational rehabilitation, in the Department of **Labor and Workforce** [EDUCATION AND EARLY] Development, will be consulted on the placement of a vocational rehabilitation client.

(Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.25.160	AS 47.25.200
	AS 47.25.120	AS 47.25.170	AS 47.33.920

7 AAC 47.410(a) is amended to read:

**7 AAC 47.410. Availability of hearing.** (a) An individual is entitled to a prompt hearing before a department representative, upon oral or written request directed to **the department** [ANY DIVISION EMPLOYEE], if

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(Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.25.180	AS 47.33.920
	<b><u>AS 47.24.011</u></b>		

7 AAC 47.420 is amended to read:

**7 AAC 47.420. Report of change.** An individual receiving financial assistance under 7 AAC 47.300 – 7 AAC 47.525 must report to the department any change in circumstances that could affect eligibility or the amount of assistance under this chapter. A report of change must be made within 10 days after the event occurs, and may be made by a responsible person acting on behalf of the individual. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority	AS 47.05.010	<u>AS 47.24.017</u>	AS 47.33.920
	<u>AS 47.24.011</u>	AS 47.25.200	

7 AAC 47.470(d) and the editor's note are amended to read:

**7 AAC 47.470. Minimum daily reimbursement rates.**

(d) The department will annually review the minimum daily reimbursement rate in (b) of this section and the multiplying factor in (c) of this section and may adjust the rate to reflect changes in the United States Department of Labor consumer price index and the state cost-of-living differentials determined by the department [DEPARTMENT OF ADMINISTRATION] and the Alaska Commission on Aging.

(Eff. 11/23/80, Register 76; am 8/12/82, Register 83; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.25.120	AS 47.25.195
	<u>AS 47.24.011</u>	AS 47.25.130	AS 47.33.920
	<u>AS 47.24.017</u>	AS 47.25.170	

**Editor's note:** A copy of the Alaska Commission on Aging State Plan for Services 2001 - 2003, issued by the Alaska Commission on Aging, Table 1 of which is adopted by reference in 7 AAC 47.470, may be reviewed at any office [THE OFFICES] of the Division of Senior and Disabilities Services, or may be obtained from the Alaska Commission on Aging, P.O. Box 110693, Juneau, AK 99811-0693 [3601 C STREET, SUITE 310, ANCHORAGE, AK 99503]; telephone (907) 465-3250 [(907) 269-3666]. The most recent version of the state plan is also available at <http://www.alaskaaging.org/>.

7 AAC 47 is amended by adding a new section to read:

**7 AAC 47.471. Augmented rates; general.** (a) Except for a resident who also receives financial assistance under 7 AAC 47.472, or from another agency, organization, or program for the cost of services provided in the assisted living home, the department may augment the minimum daily reimbursement rate set in 7 AAC 47.470 if a resident, including a vulnerable adult, requires assistance with four or more activities of daily living, or if a resident requires a level of care, monitoring, and protective service that is significantly higher than that required for other residents of the home, including other residents with an impairment described in this subsection, to protect the resident from abuse, neglect, or exploitation because of

(1) severe alcohol or drug dependency acting out behavior, including use of alcohol or drugs in or out of the home;

(2) severe mental health, mental impairment, or emotional disturbance issues resulting in disruptive acting out behaviors, including aggressive, violent, offensive, or assaultive behavior;

(3) a major health impairment; or

(4) other variables or factors that make the resident extremely difficult to place and protect in an assisted living home.

(b) An augmented rate of \$1 to \$22 a day will be paid for each resident described in (a) of this section if the department finds that the resident is eligible for an augmented rate. The amount of the augmented rate will be based on the number of activities of daily living provided, and the level of care, monitoring, and protective services required as follows:

(1) for a resident who requires assistance with four or more activities of daily living, the augmented rate is \$7 a day for each additional activity of daily living, not to exceed \$22 a day;

(2) for a resident described in (a)(1), (2), (3), or (4), the augmented rate is \$15 a day;

(3) for a resident who requires assistance with four or more activities of daily living and who is described in (a)(1), (2), (3), or

(4) of this section, the augmented rate is \$22 a day.

(c) For an emergency placement, an additional augmented rate of up to \$10 a day will be paid for a person described in (b)(1) or (2) of this section, not to exceed \$22 a day. An augmented rate under this subsection will be paid for no more than 31 days, unless the department determines that payment for additional days is necessary to protect the resident.

(d) An augmented rate paid on behalf of a resident is discontinued for any day that the resident is not living in the assisted living home. (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.24.011	AS 47.25.130	AS 47.33.195
	AS 47.24.017	AS 47.25.170	AS 47.33.920
	AS 47.25.120	AS 47.05.010	

7 AAC 47.472(a) is amended to read:

**7 AAC 47.472. Augmented rates; restricted.** (a) Except for a resident who also receives financial assistance under 7 AAC 47.471, or from another agency, organization, or program for the cost of services provided in the assisted living home, the department may augment the minimum daily reimbursement rate set in 7 AAC 47.470 for a resident of an assisted living home who

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(Eff. 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	<u>AS 47.24.011</u>	AS 47.25.130	AS 47.33.195
	<u>AS 47.24.017</u>	AS 47.25.170	AS 47.33.920
	AS 47.25.120	AS 47.05.010	

7 AAC 47.525 is amended to read:

**7 AAC 47.525. Waiver of requirement of 7 AAC 47.300 - 7 AAC 47.510.** The **department** [DIRECTOR] may waive a requirement of 7 AAC 47.300 - 7 AAC 47.510 if necessary for the protection of an individual placed in an assisted living home under 7 AAC 47.400, unless the requirement is one imposed under AS 47.05, AS 47.24, AS 47.25, AS 47.33, or 7 AAC 75 and the home has not been granted a variance under 7 AAC 75.410 - 7 AAC 75.490. (Eff. 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	AS 47.25.120	AS 47.33.920
	<u>AS 47.24.011</u>		

7 AAC 47.900(9) and (12) are repealed, (23) is amended, and three new paragraphs are added, to read:

**NOTE:** At adoption, the department will repeal and readopt this section to retain alphabetical order of the definitions.

**7 AAC 47.900. Definitions.** In this chapter, unless the context indicates otherwise,

(9) repealed \_\_\_\_/\_\_\_\_/200\_\_. [“DIRECTOR” MEANS THE DIRECTOR OF THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES OF THE DEPARTMENT;]

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(12) repealed \_\_\_\_/\_\_\_\_/200\_\_. [“DIVISION OF FAMILY AND YOUTH SERVICES” MEANS THE DIVISION OF FAMILY AND YOUTH SERVICES OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;]

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(23) “protective services” has the meaning given in AS 47.24.900 [MEANS SERVICES THAT ARE INTENDED TO PREVENT OR ALLEVIATE HARM RESULTING FROM ABANDONMENT, EXPLOITATION, ABUSE, NEGLECT, OR SELF-NEGLECT];

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( ) “exploitation” has the meaning given in AS 47.24.900;

( ) “neglect” has the meaning given in AS 47.24.900;

( ) “vulnerable adult” has the meaning given in AS 47.24.900.

(Eff. 3/23/78, Register 65; am 11/23/80, Register 76; am 1/27/82, Register 81; am 4/15/82, Register 82; am 5/25/82, Register 84; am 11/20/94, Register 132; am 1/14/2000, Register 153; am 6/28/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.05.010	<u>AS 47.24.017</u>	<u>AS 47.24.900</u>
	<u>AS 47.24.011</u>	AS 47.25.120	<u>AS 47.33.920</u> [AS 47.38.920]

**Part 5. Mental Health and Development Disabilities.**

**Chapter 71. Community Mental Health Services.**

**Article 2. Contracts for Services.**

7 AAC 71.020 is amended to read:

**7 AAC 71.020. Application process.** (a) Application for financial assistance under AS 47.30.520 - 47.30.620 must be made on a form provided by the department [DIVISION].

(b) The department may [DIVISION WILL, IN ITS DISCRETION,] assist an applicant in preparing the application and in complying with the requirements of this chapter [7 AAC 71]. (Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530

7 AAC 71.025(a) and (b) are amended to read:

**7 AAC 71.025. Geographic planning areas.** (a) The department [DIVISION] will maintain a list of geographic planning areas and the communities within each area [OF THOSE AREAS]. A community mental health center receiving financial assistance or an applicant for financial assistance under AS 47.30.520 - 47.30.620 within a geographic planning area shall serve the entire area. Centers or applicants that are unable to provide services to the entire geographical planning area must submit to the department [DIVISION] their reasons for proposing to serve only part of the geographical planning area. Department [THE DIVISION MUST] review and approval of [APPROVE] these reasons is required before [PRIOR TO AWARDING] financial assistance will be awarded.

(b) An organization [ORGANIZATIONS] applying for financial assistance under AS 47.30.520 - 47.30.620 shall, whenever possible, propose to provide services throughout an entire geographic planning area. If two or more organizations are each proposing to serve only a part of the planning area, the department [DIVISION], upon receipt of the organizations' letters of intent under 7 AAC 78.060, will notify each applicant of the intent of other applicants to serve a part of the same planning area. The affected applicants shall either develop a single areawide services application or document attempts to do so.

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

7 AAC 71.035(a) is amended to read:

**7 AAC 71.035. Execution of contract.** (a) The department [DIVISION] will distribute financial assistance under AS 47.30.520 - 47.30.620 to a local community entity whose application is approved under 7 AAC 71.110 only after the community entity enters into a written contract with the department.

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.30.520	AS 47.30.540	AS 47.30.560
	AS 47.30.530	AS 47.30.550	AS 47.30.570

### **Article 3. Standards for Operation of a Community Mental Health Center.**

The lead-in language of 7 AAC 71.100 is amended to read:

**7 AAC 71.100. Organization and administration.** A community mental health center must provide the department [DIVISION] with

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530

7 AAC 71.105(b) is amended, and (c) is amended by adding a new paragraph, to read:

#### **7 AAC 71.105. Policy and procedures manual.**

(b) Provisions in the policy and procedures manual must be consistent internally and with applicable statutes and regulations [DEPARTMENT AND DIVISION POLICIES AND PROCEDURES].

(c) Written policies and procedures must be maintained in the following areas:

**(13) a plan for responding to an emergency situation described in 7 AAC 71.170, including procedures for**

**(A) maintaining a log that includes the details of each emergency situation from onset through resolution;**

**(B) responding to and reporting an emergency situation as required by 7 AAC 71.167 and 7 AAC 71.170; and**

**(C) conducting an internal review under 7 AAC 71.125(d).**

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

7 AAC 71.110(2) is amended to read:

**7 AAC 71.110. Fiscal administration.** To maximize revenues and to ensure proper fiscal management, a center must

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(2) maintain fiscal records and provide to the **department** [DIVISION] fiscal reports at least quarterly on forms provided by the **department** [DIVISION];

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

7 AAC 71.115(b), (c), and the editor's note, are amended to read:

**7 AAC 71.115. Personnel administration.**

(b) Changes in or exceptions to written job descriptions **that** [WHICH] materially alter the scope of the program are subject to prior **department** approval [OF THE DIVISION].

(c) A written job description for a program director is subject to **department** approval [BY THE DIVISION]. A program director must be an experienced mental health professional with at least a Master's degree in a mental health field.

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

7 AAC 71.125 is amended by adding new subsections and an editor's note to read:

**7 AAC 71.125. Quality assurance.**

(d) Subject to (e) and (f) of this section, within 15 days after the occurrence of an emergency situation described in 7 AAC 71.170(b)(1)-(3), or if required by the department under 7 AAC 71.167(e), a center shall commence an internal review, in accordance with procedures developed under 7 AAC 71.105(c)(13), that includes

- (1) the clinical status and treatment goals of each person involved, and an assessment as to whether the treatment plan was followed;
- (2) any significant medical history of each person involved;
- (3) any history of behaviors of each person involved that have endangered that person or others;
- (4) the circumstances surrounding the emergency situation, including
  - (A) events leading to the situation;
  - (B) a timeline of the center's response; and
  - (C) a timeline and the role of each relevant community responder;
- (5) an assessment as to whether center policies and relevant statutes and regulations were followed at the time of the emergency situation, including information regarding the background and qualifications of any employee involved;
- (6) an assessment of needed changes to decrease the probability of a similar situation in the future;
- (7) a description of the review process, including the name of each participant in the process, each person responsible for writing the report, and each person who will receive a copy of the report;
- (8) a list of recommendations developed during the review; and
- (9) a description of how the center plans to implement each recommendation.

(e) Within 30 days after the occurrence of an emergency situation, the center shall provide a written report to the department that describes in detail each element of the internal review conducted under (d) of this section.

(f) The center shall maintain each report prepared under (e) of this section as part of the case record of each person involved in the emergency situation. The report must be open for department review. (Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530

**Editor's note:** For purposes of 7 AAC 71.125(e), unless otherwise directed by the department, written reports should be sent to: Department of Health & Social Services, Attention: Director, Division of Behavioral Health, P.O. Box 110620, Juneau, Alaska 99811; telephone: (907) 465-3370; facsimile: (907) 465-2668.

7 AAC 71.135(b)(1)(A) and the editor's note are amended to read:

**7 AAC 71.135. Types of services and populations to be served.**

(b) A center must provide the following services to the above listed populations in prioritized order:

(1) evaluation services, including

(A) diagnosis using the [DSM-III] classification **in the DSM-IV-TR, Diagnostic and Statistical Manual of Mental Disorders (2000), or the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM);** and

(Eff. 9/1/82, Register 83; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

**Editor's note:** A copy of the **DSM-IV-TR** [DSM-III], Diagnostic and Statistical Manual of Mental Disorders **(2000), or the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)**, mentioned in (b)(1)(A) of this section, may be reviewed at [A REGIONAL OFFICE OF] the **department's** division **of behavioral health**.

7 AAC 71.155(a) and (h) are amended to read:

**7 AAC 71.155. Client records.** (a) A center must maintain an organized record system that [WHICH] contains client information including [ALL] information required on the admission and discharge forms provided by the department [DIVISION].

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(h) A center must submit information to the department [DIVISION] under 7 AAC 71.400 - 7 AAC 71.449. (Eff. 9/1/82, Register 83; am 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

7 AAC 71 is amended by adding new sections to read:

**7 AAC 71.167. Emergency situations; general reporting requirements.** (a) A center shall immediately telephone the police or state troopers if

(1) a situation occurs at a center facility, or is imminent, that involves a risk of serious harm to any person; or

(2) an unexpected death occurs at a center facility, including death related to homicide, suicide, or injuries inflicted by that person or another person.

(b) If emergency medical intervention is necessary, the center shall

(1) telephone an ambulance service; if ambulance service is not necessary, the center shall arrange or provide transportation for any person who needs non-emergency medical care; and

(2) notify the person's medical professional as provided in that person's treatment plan..

(c) Except as provided in 7 AAC 71.170, a center shall notify the department by telephone on the first working day after the center

(1) notifies the police or state troopers under (a) of this section; and

(2) has knowledge that a recipient of services dies, is missing, or sustains a serious physical injury as defined in AS 11.81.900(b)(55); for purposes of this paragraph, and after taking action under (d) of this section, a person is considered to be missing as soon as the center determines that no staff are aware of the person's whereabouts.

(d) Before determining under (c)(2) of this section that a person is missing, the center shall take appropriate action to locate the person, including

(1) conducting a search of the person's living quarters and the locations of programs and activities in which the person takes part;

(2) searching or telephoning places that the person is known to frequent; and

(3) making telephone or personal contact with family, friends, or others with whom the person associates, to the extent appropriate under state law governing confidentiality.

(e) After receiving a report under (c) of this section, the department may require a center to conduct an internal review under 7 AAC 71.125(d)-(f). (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

**7 AAC 71.170. Emergency situations involving residents of a center facility; response and reporting requirements.** (a) In addition to the requirements of 7 AAC 71.167(a) and (b), the provisions of this section apply to a center that provides services under this chapter that

(1) are paid for, in whole or in part, under AS 47.30.520 - 47.30.620; and

(2) are provided to a resident of a facility with on-site staff, shift staff, or live-in staff, including a supported living home, transitional living facility, group home, foster home, and crisis respite facility, if the resident is

(A) known to have suicidal or homicidal thinking that could reasonably pose a risk to the resident or to others;

(B) so incapacitated by a mental, emotional, or behavioral disability that the resident would not reasonably be able to take care of personal needs;

(C) under the age of 18 years; or

(D) unable to be located after the resident has been absent for 24 hours without notifying staff.

(b) A center shall report an emergency situation described in this subsection to the department, by telephone, no later than the first working day after the center has knowledge that

(1) a person described in (a) of this section

(A) dies as a result of an unnatural cause, including death related to homicide, suicide, or injuries inflicted by that person or another person during the course of service delivery or within 90 days after service delivery;

(B) inflicts or receives serious physical injury as defined in AS 11.81.900(b)(55) during the course of service delivery or within 90 days after service delivery; or

(C) is unable to be located during the course of service delivery; for purposes of this subparagraph, and after taking action under (c) of this section, a person is considered to be missing as soon as the center determines that no staff are aware of the person's whereabouts;

(2) a situation has occurred that places one or more persons at a facility at significant risk of serious injury or death, including

(A) fire or major destruction to the facility; or

(B) an occurrence of death; or

(3) a situation has occurred, or is imminent, that has endangered, or that could endanger, community safety.

(c) Before determining under (b)(1)(C) of this section that a person is missing, the center shall take appropriate action to locate the person, including

(1) conducting a search of the person's living quarters and the locations of programs and activities in which the person takes part;

(2) searching or telephoning places that the consumer is known to frequent; and

(3) making telephone or personal contact with family, friends, or others with whom the person associates, to the extent appropriate under state law governing confidentiality.

(d) If a minor who has been committed to the department's custody is involved in an emergency situation described in (b) of this section, the center shall also report to the department as required by 7 AAC 50.140.

(e) If requested by the department, the center shall update the department by telephone during the course of an emergency situation in accordance with a schedule determined by the department.

(f) Within three working days after notifying the department by telephone under this section, the center shall submit to the department, by facsimile, a written document that describes precipitating events, the facts related to the emergency situation, and subsequent action taken by the center, using an incident report form supplied by the department.

(g) The center shall notify the department by telephone within 24 hours after a person who has been reported missing is located.

(h) A center shall submit to the department written documentation of the resolution of an emergency situation within seven days after the situation occurs, using an incident resolution form supplied by the department.

(i) A center shall conduct an internal review of each emergency situation as required by 7 AAC 71.125(d). (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540

**Article 4. Client Rights.**

7 AAC 71.215(b)(4), (b)(8), and (e) are amended to read:

**7 AAC 71.215. Confidentiality.**

(b) Information regarding a client may be released without consent only to

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(4) mental health professionals designated by the **department** [DIVISION] to conduct program analysis or on-site reviews;

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(8) the **department** [DIVISION] in accordance with 7 AAC 71.400 - 7 AAC 71.449.

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(e) A center must

(1) develop a plan for safeguarding confidential information and submit it to the **department** [DIVISION] as part of the annual plan for services; and

(2) maintain all data that it is required to submit to the **department** [DIVISION] under 7 AAC 71.400 - 7 AAC 71.449 in the manner required by 7 AAC 71.440(c). (Eff. 9/1/82, Register 83; am 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.540 AS 47.30.590

The title of Article 5 is amended to read:

**Article 5. Alaska Automated Information Management [INFORMATION] System  
(AKAIMS) for Mental Health Programs.**

7 AAC 71.400(b) is amended to read:

**7 AAC 71.400. Alaska automated information management [INFORMATION] system (AKAIMS) for mental health programs; required submission of data.**

(b) A person described in (a) of this section shall submit to the department [DIVISION] the data described in (c) of this section for inclusion in (AKAIMS) [THE DIVISION'S MANAGEMENT INFORMATION SYSTEM FOR MENTAL HEALTH PROGRAMS].

(Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.405 is amended to read:

**7 AAC 71.405. Submission of data by providers.** (a) A provider required by 7 AAC 71.400 to provide data shall submit the data

(1) in hard copy or by electronic transmission, as prescribed by the department [DIVISION];

(2) in the format specified by the department [DIVISION]; and

(3) not later than the deadline specified by the department [DIVISION].

(b) On an application submitted to the department [DIRECTOR OF THE DIVISION] in writing by a provider required by 7 AAC 71.400 to provide data, the department [DIRECTOR] may

(1) exempt the provider from the requirements of 7 AAC 71.400 - 7 AAC 71.449 if the department [DIRECTOR] determines that compliance with the requirements would present a financial or administrative hardship to the provider; or

(2) extend the deadline by which, under (a)(3) of this section, a provider is required to report the data if the **department** [DIRECTOR] determines that the provider has shown good cause for the extension. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.410 is amended to read:

**7 AAC 71.410. Obligation to submit accurate and complete data.** The **department** [DIVISION]

(1) **will** [SHALL] take reasonable steps necessary to ensure the accuracy and completeness of the data submitted by providers under 7 AAC 71.400; and

(2) may require a provider to correct information submitted by the provider under 7 AAC 71.400 that is found to be inaccurate or incomplete. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.415 is amended to read:

**7 AAC 71.415. Transmission of data.** (a) A provider required to submit data under 7 AAC 71.400 shall transmit the data using an algorithm assigned by the **department** [DIVISION]. The **department** [DIVISION] will change the construction of the algorithm as necessary in order to achieve 95 percent accuracy of information. If an algorithm includes a portion of a client's social security number, the portion of the social security number may only be included in the algorithm if it was properly obtained under P.L. 93-579, sec. 7, 88 Stat. 1909, or under another applicable federal or state law.

(b) Data required to be submitted under 7 AAC 71.400 - 7 AAC 71.449 that are electronically transmitted to the **department** [DIVISION] by a provider must be encrypted using the specifications established by the department. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.420 is amended to read:

**7 AAC 71.420. Confidential information.** (a) Data submitted to the department [DIVISION] under 7 AAC 71.400 about an individual client is confidential information and is not subject to disclosure under AS 40.25.100 - 40.25.220.

(b) A person who discloses data submitted to the department [DIVISION] under 7 AAC 71.400 - 7 AAC 71.449, except in accordance with 7 AAC 71.425, may be subject to sanction under AS 11.56.860. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.425 is amended to read:

**7 AAC 71.425. Use and disclosure of data and information.** (a) Except as provided in (b) of this section, the department will [DIVISION MAY] disclose data or information that has been submitted [TO THE DIVISION] under 7 AAC 71.400 - 7 AAC 71.449 for inclusion in (AKAIMS) [THE SYSTEM] only in the form of non-identifying client aggregate data.

(b) The department [DIVISION] will limit the use of client identification numbers to purposes directly related to the administration of mental health programs. However, notwithstanding this limitation, the department [DIVISION] will

(1) furnish a provider a list of the provider's individual computer records, that may include client identification numbers, for use in error correction;

(2) disclose to [THE] department staff information, that may include client identification numbers, for purposes of program oversight and program evaluation, and for purposes related to the department's resource allocation decision-making process; and

(3) allow access to computer records, that may include client identification numbers, under 7 AAC 71.430.

(c) When the use or disclosure of data or information that is authorized by (b) of this section includes a client identification number, the **department will** [DIVISION MAY] disclose or authorize use **of** only that portion of the data or information that is necessary for the purpose of the disclosure. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.430 is amended to read:

**7 AAC 71.430. Access to (AKAIMS) [SYSTEM] computer records.** (a) The **department** [DIVISION] will permit access to **(AKAIMS)** [SYSTEM] computer records only by [:]

(1) **department** [DIVISION SYSTEM] and data processing staff **who** [THAT] operate and maintain the system;

(2) staff designated by the **department** [DIVISION];

(3) staff of the department designated by the commissioner in order to obtain information for a purpose described in 7 AAC 71.425(b)(2); and

(4) a contractor hired by the department to perform maintenance, upgrading, or additions to **(AKAIMS)** [THE SYSTEM'S] computer software or hardware.

(b) Access to **(AKAIMS)** computer [SYSTEM] records by a person under (a)(2) - (4) of this section

(1) may only be given by the **commissioner, or by the director of the** division **that is responsible for the records** [DIRECTOR]; and

(2) must be given [BY THE DIRECTOR] in writing.

(Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.435 is amended to read:

**7 AAC 71.435. (AKAIMS) [SYSTEM] record retention.** (a) The department [DIVISION] will retain hard-copy data submitted by a provider to the department [DIVISION] for inclusion in (AKAIMS) [THE SYSTEM] for four months following data entry and verification. At the end of the retention period, the department [DIVISION] will destroy the hard-copy data.

(b) Except as provided for hard-copy data by (a) of this section, the department [DIVISION] will retain (AKAIMS) [SYSTEM] data in an electronic format [ON COMPUTER DISC DRIVE OR TAPE] as long as is necessary to produce aggregate data for research, audit, or informational purposes. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530                      AS 47.30.590                      AS 47.30.660  
AS 47.30.540

7 AAC 71.440 is amended to read:

**7 AAC 71.440. Security of data.** (a) When data are submitted under 7 AAC 71.400 – 7 AAC 71.449 for inclusion in (AKAIMS) [THE SYSTEM]

(1) in hard copy, except when the data is in use, the department will [DIVISION SHALL] maintain the data in a locked room, locked file cabinet, safe, or similar secure place;

(2) in an electronic transmitted form, the department will [DIVISION SHALL] secure access to the data by at least the use of multiple password protections with the passwords safeguarded from use by unauthorized persons.

(b) The department will [DIVISION SHALL] maintain (AKAIMS) [SYSTEM] data in an electronic format [ON COMPUTER DISC DRIVE OR TAPE] and shall secure access to the data by at least the use of multiple password protections with the passwords safeguarded from use by unauthorized persons.

(c) A provider shall keep data submitted to the **department** [DIVISION] in a manner that will permit the **department** [DIVISION] to conduct a review [IN ORDER] to determine whether the data submitted by the provider under 7 AAC 71.400 is accurate or whether inaccurate or incomplete data should be corrected under 7 AAC 71.410(b). (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Authority:** AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

7 AAC 71.449(11) is repealed:

**7 AAC 71.449. Definitions for 7 AAC 71.400 - 7 AAC 71.449.** In 7 AAC 71.400 – 7 AAC 71.449:

(11) repealed \_\_\_\_/\_\_\_\_/200\_\_ ["SYSTEM" MEANS THE MANAGEMENT INFORMATION SYSTEM (MIS) THAT HAS BEEN DEVELOPED AND IS MAINTAINED BY THE DIVISION UNDER 7 AAC 71.400 - 7 AAC 71.449 TO IMPLEMENT A DUTY ASSIGNED BY AS 47.30.530]. (Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Authority:** AS 47.30.530 AS 47.30.590 AS 47.30.660  
AS 47.30.540

#### **Article 6. General Provisions.**

7 AAC 71.990(4) is repealed, (5) is amended, a new paragraph is added, and the editor's note is amended, to read:

**NOTE:** At adoption, the department will repeal and readopt this section to retain alphabetical order of the definitions.

**7 AAC 71.990. Definitions for chapter.** In this chapter,

(4) repealed \_\_\_\_/\_\_\_\_/200\_\_. ["DIVISION" MEANS THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN THE DEPARTMENT;]

( ) “emergency situation” includes the disappearance, serious injury, or death of a person receiving services under this chapter if those services are paid for, in whole or in part, under AS 47.30.520 - 47.30.620; for purposes of this paragraph, “serious injury” has the meaning given in AS 11.81.900(b)(55);

(5) "geographic planning area" means the locality designated by the department in A Shared Vision II, A Strategic Plan for Mental Health Services in Alaska, 1999-2003 [THE ALASKA STATE MENTAL HEALTH PLAN] for planning and administrative purposes;

(Eff. 11/29/97, Register 144; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530

**Editor's note:** A copy of A Shared Vision II, A Strategic Plan for Mental Health Services in Alaska, 1999-2003 [THE ALASKA STATE MENTAL HEALTH PLAN, PUBLISHED IN 1977], mentioned in paragraph (5) of this section, is available at the [A REGIONAL OFFICE OF THE DIVISION,] Alaska State Libraries, or the department's division of behavioral health [CENTRAL OFFICE OF THE DIVISION].

**Chapter 72. Civil Commitment.**

**Article 2. Designation of Facilities.**

7 AAC 72.020(b) is amended by adding a new paragraph, and (d) is amended, to read:

**7 AAC 72.020. Application for facility designation.**

(b) The administrator of a designated facility shall develop, and amend as necessary, written policies and procedures that cover

• • • •

**(13) a plan for responding to an emergency situation described in 7 AAC 72.225, including procedures for**

**(A) maintaining a log that includes the details of each emergency situation from onset through resolution;**

**(B) responding to and reporting an emergency situation as required by 7 AAC 72.225; and**

**(C) conducting an internal review under 7 AAC 72.227.**

• • • •

(d) Within 10 working days after applying under (a) of this section, the administrator of a facility seeking designation as an evaluation or treatment facility shall publish, at the facility's expense, a public notice of the application at least one time in at least one newspaper of general circulation in the area served by the facility. The public notice must include the following text: "The [insert name of facility], located at [insert address], is requesting the Department of Health and Social Services to designate this facility as a [insert "designated evaluation facility" or "designated evaluation and treatment facility," as appropriate] for purposes of providing services to persons subject to voluntary or involuntary admission for mental health or psychiatric evaluation or treatment. Any person may submit written comments to the department regarding this request so that the department receives them by [insert a date at least 20 days after the date that the notice is published in the newspaper]. Please send comments to: Department of Health and Social Services, Division of **Behavioral** [MENTAL] Health [AND DEVELOPMENTAL DISABILITIES], P.O. Box 110620, Juneau, AK 99811-0620. If you would like a copy of the application materials, please write to the above address or contact the **department by telephone** [MENTAL HEALTH SERVICES PROGRAM ADMINISTRATOR'S OFFICE] at [insert telephone number]. If you are a person with a disability who may need a special accommodation in order to comment, please contact the **department** [MENTAL HEALTH SERVICE PROGRAM ADMINISTRATOR'S OFFICE], at the number listed above, before [insert a date at least 10 days after the date that the notice is published in the newspaper]."

(Eff. 3/30/85, Register 93; am 3/16/2001, Register 2001; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Authority:** AS 47.30.660

**Editor's note:** The telephone number for the **department** [OFFICES OF THE MENTAL HEALTH SERVICES PROGRAM ADMINISTRATOR], referenced in 7 AAC 72.020(d), is (907) 465-3370.

7 AAC 72.070(e) is amended to read:

**7 AAC 72.070. Revocation of designation.**

(e) An interested person may submit a request to the department [DIRECTOR], asking that the department revoke a facility's designation, and clearly stating how the facility has failed to comply with an applicable provision of AS 47.30.660 – 47.30.915 or this chapter, including a provision of 7 AAC 12 that is adopted by reference in 7 AAC 72.012. Within 14 days after receiving a request under this subsection, the department will send the interested person and the administrator of the facility written notification as to whether the department will perform a review under (a) of this section. (Eff. 3/30/85, Register 93; am 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660

**Article 3. Requirements for Designated Facilities.**

The lead-in language of 7 AAC 72.155 is amended to read:

**7 AAC 72.155. Quarterly report of patient information.** Within 60 days after the end of each calendar quarter, the administrator shall submit to the department [DIVISION], on a form supplied by the department, the following information regarding patients admitted to the facility during the previous quarter who were found to be suffering from a mental illness and who posed a danger to self or others, or who were gravely disabled, as determined by each patient's treating physician or psychiatrist:

• • • •

(Eff. 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660

The title of Article 4 is amended to read:

**Article 4. Procedures for Emergency Situations and for Emergency Examinations.**

7 AAC 72.220 is amended to read:

**7 AAC 72.220. Scope of 7 AAC 72.225 [7 AAC 72.230] - 7 AAC 72.260.** The requirements of **7 AAC 72.225** [7 AAC 72.230] - 7 AAC 72.260 apply to all facilities, whether licensed under 7 AAC 12.100 or otherwise designated under this chapter. (Eff. 3/30/85, Register 93; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660

7 AAC 72 is amended by adding new sections to read:

**7 AAC 72.225. Emergency situations; response and reporting requirements.** (a) A facility shall immediately telephone the police or state troopers if

(1) a situation occurs at the facility, or is imminent, that involves a risk of serious harm to any person; or

(2) a unexpected death occurs at a facility.

(b) A facility shall report an emergency situation to the department, by telephone, no later than the first working day after the facility has knowledge that

(1) a person receiving inpatient services under this chapter that are paid for, in whole or in part, under AS 47.30.520 - 47.30.620

(A) has died as a result of an unnatural cause, including death related to homicide, suicide, or injuries inflicted by that person or others during the course of service delivery or within 90 days after service delivery;

(B) has inflicted or received serious injury as defined in AS 11.81.900(b)(55) during the course of service delivery or within 90 days after service delivery; or

(C) who has been hospitalized under AS 47.30 is unable to be located;

(2) a situation has occurred that places one or more persons at the facility at grave risk of serious injury or death, including fire or major destruction to the facility; or

(3) a situation has occurred, or is imminent, that could endanger or has endangered community safety as a result of action or potential action of a person served under this chapter.

(c) Before determining under (d) of this section that a person is missing, the facility shall take appropriate action to locate the person, including

(1) conducting a search of the person's living quarters and the locations of programs and activities in which the person takes part;

(2) searching or telephoning places that the consumer is known to frequent; and

(3) making telephone or personal contact with family, friends, or others with whom the person associates, to the extent appropriate under state law governing confidentiality.

(d) For purposes of this section, and after action taken under (c) of this section, a person is considered to be missing

(1) as soon the facility determines that no staff are aware of the whereabouts of a person who

(A) is known to have experienced suicidal or homicidal thinking that could reasonably pose a risk to that person or others;

(B) is so incapacitated by mental, emotional, or behavioral disability that the person would not reasonably be able to take care of personal needs;

(C) is under the age of 18 years;

(2) after an absence of 24 hours of any person not described in (1) of this subsection if that person has failed to notify staff.

(e) If a minor who has been committed to the department's custody is involved in an emergency situation described in (b) of this section, the facility shall also report to the department as required by 7 AAC 50.140.

(f) If requested by the department, the facility shall update the department by telephone during the course of an emergency situation in accordance with a schedule determined by the department.

(g) Within three working days after notifying the department by telephone under this section, the facility shall submit to the department, by facsimile, a written document that describes precipitating events, the facts related to the emergency situation, and subsequent action taken by the facility, using an incident report form supplied by the department.

(h) The facility shall notify the department by telephone within 24 hours after a person who has been reported missing is located.

(i) The facility shall submit to the department written documentation of the resolution of an emergency situation within seven days after the situation occurs, using an incident resolution form supplied by the department.

(j) After the occurrence of an emergency situation described in (b) of this section, the facility shall provide to the department written documentation of an internal review as required by 7 AAC 72.227. (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.540 AS 47.30.660

**7 AAC 72.227. Internal review of emergency situation.** (a) Subject to (b) and (c) of this section, within 15 days after the occurrence of an emergency situation described in 7 AAC 72.225(b), a facility shall conduct an internal review, in accordance with procedures developed under 7 AAC 72.020(b)(13), that includes

(1) the clinical status and treatment goals of each person involved, and an assessment as to whether the treatment plan was followed;

(2) any significant medical history of each person involved;

(3) any history of behaviors of each person involved that have endangered that person or others;

- (4) the circumstances surrounding the emergency situation, including
    - (A) events leading to the situation;
    - (B) a timeline of the facility's response; and
    - (C) a timeline and the role of each relevant community responder;
  - (5) an assessment as to whether facility policies and relevant statutes and regulations were followed at the time of the emergency situation, including information regarding the background and qualifications of any employee involved;
  - (6) an assessment of needed changes to decrease the probability of a similar situation in the future;
  - (7) a description of the review process, including the name of each participant in the process, each person responsible for writing the report, and each person who will receive a copy of the report;
  - (8) a list of recommendations developed during the review; and
  - (9) a description of how the facility plans to implement each recommendation.
- (b) Within 30 days after the occurrence of an emergency situation, the facility shall provide a written report to the department that describes in detail each element of the internal review conducted under (a) of this section.
- (c) The facility shall maintained each report prepared under (b) of this section as part of the case record of each person involved in the emergency situation. The report must be open for department review. (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.530      AS 47.30.540      AS 47.30.660

**Article 10. Mental Health Treatment Assistance Program.**

The lead-in language of 7 AAC 72.510 is amended to read:

**7 AAC 72.510. Rate of reimbursement for mental health services.** As the payor of last resort, subject to **department** [DIVISION] approval and the availability of appropriations from the legislature, the **department** [DIVISION] will reimburse a designated facility for a service provided under 7 AAC 72.520(a) or (b) to a person who is eligible for financial assistance under AS 47.31.010. Reimbursement will be at the Medicaid rate that is

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(Eff. 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660 AS 47.31.025 AS 47.31.090

The lead-in language of 7 AAC 72.520(a), (a)(10), the lead-in language of (b), (c), and (d), and (f) are amended to read:

**7 AAC 72.520. Mental health services eligible for financial assistance.** (a) Subject to (d) of this section, if the **department** [DIVISION] determines under 7 AAC 72.540 that a person who received evaluation or treatment at a designated facility is eligible for financial assistance, the **department** [DIVISION] will provide reimbursement under 7 AAC 72.510 for the following mental health services that are provided by a designated facility and that are directly related to a patient's mental health condition that resulted in eligibility for financial assistance under AS 47.31.010:

• • • •

(10) other services directly related to the admission being billed, as determined by the **department** [DIVISION] on a case-by-case basis.

(b) The **department** [DIVISION] will reimburse a designated evaluation facility for no more than seven days for evaluation and crisis stabilization or for transition to community-based services if the **department** [DIVISION] determines the amount of time is clinically appropriate and

• • • •

(c) The **department** [DIVISION] will reimburse a designated treatment facility for no more than 40 days for evaluation, treatment, and crisis stabilization or for transition to community-based services if the **department** [DIVISION] determines the amount of time is clinically appropriate and

• • • •

(d) The **department** [DIVISION] will not reimburse a designated facility under 7 AAC 72.510 for

• • • •

(f) The **department** [DIVISION] may, on a case-by-case basis, deny reimbursement under 7 AAC 72.540 if the **department** [DIVISION] determines that a service provided is not directly related to the patient's mental health condition. (Eff. 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660 AS 47.31.025 AS 47.31.090

7 AAC 72.530(c) is amended to read:

**7 AAC 72.530. Application for financial assistance.**

(c) If the facility receives payment from a patient or a third-party payor after being reimbursed by the **department** [DIVISION] under this chapter, the administrator shall return the money to the **department** [DIVISION]. (Eff. 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660 AS 47.31.015 AS 47.31.090

7 AAC 72.540 is amended to read:

**7 AAC 72.540. Decision regarding eligibility for financial assistance.** (a) The **department** [DIVISION] will review information submitted under 7 AAC 72.530 to verify that the patient meets the eligibility requirements of AS 47.31.010 and that each service for which financial assistance is sought is an eligible service under 7 AAC 72.520(a) or (b). Subject to the disclosure restrictions of 42 C.F.R. Part 2 for a patient who has also received treatment for alcohol or drug abuse in a facility that receives federal financial assistance as described in 42 C.F.R. Part 2, the **department** [DIVISION] may, after 10 days notice to the facility, review all financial and medical records related to a patient for whom application for financial assistance has been made.

(b) If the **department** [DIVISION] determines that the patient is eligible for financial assistance, payment will be made directly to the designated facility that provided any service listed in 7 AAC 72.520(a) or (b), as required by AS 47.31.030.

(c) If the **department** [DIVISION] determines that the patient is ineligible for financial assistance, or that a service provided is not eligible under 7 AAC 72.520, the **department** [DIVISION] will, as required by AS 47.31.020, notify the patient and the designated facility that the application for financial assistance has been denied, and will advise the patient, the patient's legal representative, if any, and the designated facility, of the right to appeal the denial of assistance under AS 47.31.035. (Eff. 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Authority:** AS 47.30.660

AS 47.31.025

AS 47.31.090

**Article 11. General Provisions.**

7 AAC 72.900 is amended by adding a new paragraph, and (8) and (9) are repealed, as follows:

**NOTE:** At adoption, the department will repeal and readopt this section to retain alphabetical order of the definitions.

**7 AAC 72.900. Definitions.** In this chapter

**( ) “emergency situation” includes the disappearance, serious injury, or death of a person receiving inpatient services under this chapter if those services are paid for, in whole or in part, under AS 47.30.520 - 47.30.620; for purposes of this paragraph, “serious injury” has the meaning given in AS 11.81.900(b)(55);**

(8) repealed \_\_\_\_/\_\_\_\_/200\_\_. [“DIRECTOR” MEANS THE DIRECTOR OF THE DIVISION;]

(9) repealed \_\_\_\_/\_\_\_\_/200\_\_. [“DIVISION” MEANS THE DEPARTMENT’S DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES;]

(Eff. 3/30/85, Register 93; am 3/16/2001, Register 157; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.30.660 AS 47.31.025 AS 47.31.090

**Chapter 75. Assisted Living Homes.**

**Article 1. Licensing of Assisted Living Homes.**

The lead-in language of 7 AAC 75.010(a) is amended and (a)(2)(A) is repealed to read:

**7 AAC 75.010. Applicability.** (a) The requirements of this chapter apply to the licensure and operation of [THOSE] assisted living homes [THAT ARE THE RESPONSIBILITY OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND THOSE THAT ARE THE RESPONSIBILITY OF THE DEPARTMENT OF ADMINISTRATION,] as follows:

• • • •

(2) an assisted living home licensed before April 6, 2002 is subject to all applicable requirements of this chapter, except that the home

(A) repealed \_\_\_\_/\_\_\_\_/200\_\_ [SHALL COMPLY, NO LATER THAN APRIL 6, 2003, WITH THE APPLICABLE REQUIREMENTS OF 7 AAC 75.210(A)(8), DEALING WITH PROFESSIONAL LIABILITY INSURANCE AND BODILY INJURY LIABILITY INSURANCE; HOWEVER, EACH ASSISTED LIVING HOME SHALL MAINTAIN NOT LESS THAN \$100,000 PER RESIDENT OF BODILY INJURY LIABILITY INSURANCE BEFORE THAT DATE];

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.020(b)(1) and (d) are amended to read:

**7 AAC 75.020. Types of License; duration; licensing responsibility.**

(b) Subject to the possibility of suspension or revocation under AS 47.33 and this chapter, a license is valid for the following periods:

(1) probationary: a period set by the **department** [LICENSING AGENCY], not to exceed two **consecutive** years, with a possible one-year extension; and

• • • •

(d) A license will be issued to a home providing care

(1) primarily to persons with a mental or developmental disability [, IN WHICH CASE IT IS THE RESPONSIBILITY OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES];

(2) primarily to persons who have a physical disability, who are elderly, or who suffer from dementia, but who are not diagnosed as chronically mentally ill [, IN WHICH CASE IT IS THE RESPONSIBILITY OF THE [DEPARTMENT OF ADMINISTRATION]; and

(3) to approximately equal numbers of persons described in (1) and (2) of this subsection, or to a home seeking its probationary license and for which the administrator has not yet decided which specific category of persons to serve; in such a case the department [OF HEALTH AND SOCIAL SERVICES AND THE DEPARTMENT OF ADMINISTRATION] will [JOINTLY] consider the purposes of AS 47.33, the service features of the particular home, and, if any, the preference of the home, and [JOINTLY] decide **whether to issue** [WHICH ONE OF THOSE AGENCIES WILL HAVE THE SOLE LICENSING RESPONSIBILITY FOR that home [;] a [DUAL] license [,] entitling the home to serve persons described in both (1) and (2) of this subsection [, WILL BE ISSUED; AN APPLICANT FOR A DUAL LICENSE MAY APPLY TO EITHER AGENCY]. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011**

AS 47.33.410

AS 47.33.920

7 AAC 75.030 is amended to read:

**7 AAC 75.030. Powers and duties of the department [LICENSING AGENCY].** (a) The **department** [LICENSING AGENCY] will

(1) license assisted living homes in accordance with AS 47.33 and this chapter;

(2) investigate license applicants, licensees, and homes that are required to be licensed for compliance with **AS 47.24**, AS 47.33 and this chapter;

(3) enforce the standards established by AS 47.33 and this chapter; and

(4) inspect and investigate complaints of abandonment, abuse, exploitation, neglect, or self-neglect in assisted living homes.

(b) The **department** [LICENSING AGENCY] may designate by a written agreement conforming to (c) of this section a state, municipal, or private agency to investigate and make recommendations to the **department** [LICENSING AGENCY] for the licensing of assisted living homes under procedures and standards of operation established by the **department** [LICENSING AGENCY].

(c) An agreement executed under (b) of this section must include

(1) a description of the respective regulatory responsibilities of the **department** [LICENSING AGENCY] and the other agency;

(2) procedures for processing variance requests;

(3) procedures for record maintenance and sharing; and

(4) procedures for appealing the investigative findings and recommendations made by the designated agency for and to the **department** [LICENSING AGENCY].  
(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.010**  
**AS 47.24.011**

AS 47.33.410

AS 47.33.920

7 AAC 75.050 is amended to read:

**7 AAC 75.050. Voluntary licensure.** The **department** [LICENSING AGENCY] may, as time permits, issue a license to an assisted living home that serves one or two adult residents whether or not the residents are related to the owner by blood or marriage, and that is not required by AS 47.33.010 and 47.33.400 to be licensed, but that wishes to become licensed voluntarily. All provisions of this chapter apply to this type of licensure. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.920

7 AAC 75.060 is amended to read:

**7 AAC 75.060. Probationary license.** (a) The department [LICENSING AGENCY] will issue a probationary license to operate an assisted living home if the department [LICENSING AGENCY] finds that the application and the home's plan for operation comply with AS 47.33 and this chapter. In determining compliance with AS 47.33 and this chapter, the department [LICENSING AGENCY] will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety.

(b) At any time before the expiration of a probationary license, but after the assisted living home is operating, the department [LICENSING AGENCY] may convert a probationary license to a standard license. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

7 AAC 75.070 is amended to read:

**7 AAC 75.070. Standard license.** (a) The department [LICENSING AGENCY] will issue a standard license to operate an assisted living home if, upon completion of the probationary period and after inspection or investigation, the department [LICENSING AGENCY] finds that the home is operating in compliance with AS 47.33 and this chapter.

(b) In determining compliance with AS 47.33 and this chapter, the department [LICENSING AGENCY] will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

7 AAC 75.080(a) and (b)(9) are amended to read:

**7 AAC 75.080. Application for license; modification.** (a) A person may not begin operation of an assisted living home until that person has obtained a probationary or standard license from the department [APPROPRIATE LICENSING AGENCY]. A person may not move the location or make a major modification of a licensed assisted living home, or increase the number of residents the home is licensed to serve until that person has obtained approval for a modification of its license from the department [LICENSING AGENCY]. An application under this section must be made on a form supplied by the department [LICENSING AGENCY]. A person may not apply for a license to operate one or more additional homes until each current home has passed the probationary period and been issued a standard license. For purposes of this subsection, “major modification” means a change to the home that, during construction of the modification, would adversely affect the residents, services to residents, or emergency evacuation of residents.

(b) An application for a license to operate an assisted living home must be notarized and must contain

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(9) copies of all permits and approvals required by state or local government agencies, other than the department [LICENSING AGENCY], for construction or operation of the home;

(Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

7 AAC 75.085 is amended to read:

**7 AAC 75.085. Inspection of financial records.** Before the department will approve an application under 7 AAC 75.080, the applicant must demonstrate that the home has sufficient financial resources to operate for a minimum of three months without considering resident income. If requested by the department [LICENSING AGENCY], the home shall allow the department [AGENCY] to inspect the home’s financial records to determine whether the home has sufficient financial resources to meet the requirements of this section [OPERATE FOR A MINIMUM OF THREE MONTHS WITHOUT CONSIDERING RESIDENT INCOME]. (Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

7 AAC 75.090(a) – (e) and (i) are amended to read:

**7 AAC 75.090. Renewal; staggered renewal; extension.** (a) Before a license expires, the **department** [LICENSING AGENCY] will notify the licensee that the license is due for renewal.

(b) The **department** [LICENSING AGENCY] may inspect an assisted living home at any time before a license expires, to determine compliance with AS 47.33 and this chapter and eligibility for renewal.

(c) If the **department** [LICENSING AGENCY] finds that the home is not in compliance with AS 47.33 **or** [AND] this chapter, the home, in coordination with the **department** [LICENSING AGENCY], shall develop a plan of correction with a date for achieving compliance with each provision found to be in noncompliance. If the home is in substantial compliance by each applicable date set out in the plan of correction, the **department** [LICENSING AGENCY] will issue a probationary license. If the home is in compliance, the **department** [LICENSING AGENCY] will issue a standard license.

(d) If the **department** [LICENSING AGENCY] finds that the home is in compliance with AS 47.33 and this chapter, has provided services to residents in accordance with its contracts and plans of care, has maintained the home in good repair, and is in compliance with all applicable local and state building code, fire code, and sanitation code requirements, the **department** [AGENCY] will renew the home's standard license for two years.

(e) If several licensees apply for renewal within a short time, the **department** [LICENSING AGENCY] may stagger the license renewal dates to facilitate handling the renewals. The **department** [LICENSING AGENCY] may adjust renewal dates to facilitate the licensing of each assisted living home located in the same geographic area at the same time. The **department** [LICENSING AGENCY] will not extend or adjust a renewal date for an assisted living home that, during the licensing period, has had more than one complaint filed against it for which the **department** [LICENSING AGENCY]

(1) and the home have developed a plan of correction; or

(2) has issued a notice of violation.

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(i) The **department** [LICENSING AGENCY] will promptly notify the licensee in writing of any rescheduled renewal date. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.400 AS 47.33.540 AS 47.33.920  
AS 47.33.410

7 AAC 75.100(d) is amended to read:

**7 AAC 75.100. Fees.**

(d) After the first two onsite visits following an inspection that reveals noncompliance with AS 47.33 or this chapter, the licensee shall pay a fee of \$150 for each additional onsite visit by the **department** [LICENSING AGENCY] that results from failure of the licensee to achieve and maintain compliance within a reasonable time set by the **department** [AGENCY].

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.410 AS 47.33.910 AS 47.33.920

7 AAC 75.110(a)(5), (7), and (8) are amended to read:

**7 AAC 75.110. Content of license; posting.** (a) A license to operate an assisted living home will state

(5) the number of residents the home is licensed to serve [AND WHICH LICENSING AGENCY WILL MONITOR THE HOME'S COMPLIANCE WITH AS 47.33 AND THIS CHAPTER];

• • • •

(7) the special conditions, waivers, or variances that have been approved by the **department** [LICENSING AGENCY]; and

(8) the **department's** address and phone number [OF THE LICENSING AGENCY].

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.120(a) and (c) are amended to read:

**7 AAC 75.120. Denial of license.** (a) If the department [LICENSING AGENCY] denies an application for a license, or a license renewal, the department [AGENCY] will deliver to the applicant by hand or certified mail a notice of denial containing a summary of the reasons for denial of the application.

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(c) If the applicant decides to contest the denial, the applicant must appeal to the department, in writing, within 30 days after receiving the denial [, TO THE DIRECTOR OF THE DIVISION OF SENIOR SERVICES IN THE DEPARTMENT OF ADMINISTRATION OR THE DIRECTOR OF THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DEPENDING UPON WHICH AGENCY DENIED THE APPLICATION]. In the appeal petition, the applicant may request an oral hearing. If an oral hearing is not requested, the appeal will be decided on the basis of review of the original record and whatever additional documents and written argument the applicant presents with the appeal petition. The denial under (a) of this section serves as the statement of issues under AS 44.62.370. [THE DECISION OF THE DIRECTOR CONSTITUTES THE DECISION OF THE LICENSING AGENCY FOR THE PURPOSES OF RECONSIDERATION, UNDER AS 44.62.540, AND JUDICIAL REVIEW, UNDER AS 44.62.560.] (Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.410 AS 47.33.560 AS 47.33.920  
AS 47.33.550

7 AAC 75.140 is amended to read:

**7 AAC 75.140. Access and inspection.** (a) An applicant for a license and a licensee shall permit representatives of the department [LICENSING AGENCY] to inspect a home when necessary to implement AS 47.24, AS 47.33, and this chapter.

(b) If an applicant for a license refuses to permit an inspection, the department [LICENSING AGENCY] may seek a judicial order allowing access and inspection under AS 47.33.520.

(c) A licensee that refuses to allow access and inspection is in violation of AS 47.33. The **department** [LICENSING AGENCY] may prepare a notice of violation under AS 47.33.530, impose administrative sanctions under AS 47.33.550 and 7 AAC 75.570, and seek a judicial order allowing access and inspection under AS 47.33.520.

(d) If the **department** [DEPARTMENT OF ADMINISTRATION OR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] has reason to believe that a home is operating as an assisted living home and has not applied for a license or refuses to permit an inspection, the department may prepare a notice of violation under AS 47.33.530 and seek a judicial order allowing access and inspection under AS 47.33.520. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

**Authority:** AS 47.24.011  
AS 47.33.410

AS 47.33.520

AS 47.33.920

## Article 2. Operation of Assisted Living Homes.

7 AAC 75.210(a)(1), (a)(4), (a)(5), (b)(3), and (d)(1)(A)(iii) and (d)(1)(B) are amended, and (a)(7) and (a)(8) are repealed, to read:

**7 AAC 75.210. Organization; administration; staff.** (a) An assisted living home shall

(1) provide the **department** [LICENSING AGENCY] with the name, address, telephone number, and, if available, electronic-mail address and facsimile number of the individual or entity ultimately responsible for operation of the home or proposed home and, if the home is operated by an association, corporation, or other entity, the name, address, telephone number, and, if available, electronic-mail address and facsimile number of each member of its board or governing body and the executive director of the board or governing body;

• • • •

(4) provide the **department** [LICENSING AGENCY] with a current master list, updated as necessary, that includes the name, address, and telephone number of each resident and the name, address, telephone number, and, if available, electronic-mail address and facsimile number of each resident's representative; a home that serves three or more residents shall maintain a current copy of the master list in at least one place that can be easily accessed if the home must be evacuated;

(5) ensure that recordkeeping complies with AS 47.33.070 and uses forms prescribed or approved by the department [LICENSING AGENCY] for the preparation and protection of resident records;

• • • •

(7) repealed \_\_\_\_/\_\_\_\_/200\_\_\_. [MAINTAIN ON VEHICLES USED BY THE HOME OR THE HOME'S EMPLOYEES TO TRANSPORT RESIDENTS, COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE

(A) FOR NOT LESS THAN

(i) \$50,000 FOR INJURY OR DEATH TO ANY ONE PERSON, \$100,000 FOR TOTAL INJURIES OR DEATH PER COLLISION, AND \$25,000 FOR PROPERTY DAMAGE; OR

(ii) THE AMOUNTS SPECIFIED IN AS 19.10.300, IF APPLICABLE;

(B) WITH A COMPANY AUTHORIZED TO WRITE INSURANCE POLICIES IN THE STATE; AND

(C) WITH THE FOLLOWING REQUIRED ENDORSEMENT CONTAINED IN THE POLICY: "IF THIS POLICY IS CANCELED OR NOT RENEWED, THE COMPANY AGREES TO GIVE NOTICE TO THE DEPARTMENT OF ADMINISTRATION OR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, AS ADVISED BY THE INSURED REGARDING WHICH DEPARTMENT ISSUED THE ASSISTED LIVING HOME LICENSE TO THE INSURED, AT LEAST 30 DAYS BEFORE COVERAGE UNDER THE POLICY ENDS"; AND]

(8) repealed \_\_\_\_/\_\_\_\_/200\_\_\_. [MAINTAIN INSURANCE IN THE AMOUNT REQUIRED BY (A) OR (B) OF THIS PARAGRAPH WITH A COMPANY AUTHORIZED TO WRITE INSURANCE POLICIES IN THE STATE; THE POLICY MUST CONTAIN THE FOLLOWING ENDORSEMENT: "IF THIS POLICY IS CANCELED OR NOT RENEWED, THE COMPANY AGREES TO GIVE NOTICE TO THE DEPARTMENT OF ADMINISTRATION OR THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, AS ADVISED BY THE INSURED REGARDING WHICH DEPARTMENT ISSUED THE ASSISTED LIVING HOME LICENSE TO THE INSURED, AT LEAST 30 DAYS BEFORE COVERAGE UNDER THE POLICY ENDS"; THE AMOUNT OF INSURANCE REQUIRED IS

(A) FOR AN ASSISTED LIVING HOME SERVING 1 - 10 RESIDENTS, NOT LESS THAN \$100,000 PER RESIDENT OF BODILY INJURY LIABILITY INSURANCE, AND NOT LESS THAN \$100,000 PER RESIDENT OF PROFESSIONAL LIABILITY INSURANCE; A HOME LICENSED FOR FEWER THAN SIX RESIDENTS MAY MEET THIS REQUIREMENT THROUGH A RIDER ON THE HOME'S HOMEOWNER INSURANCE POLICY THAT PROVIDES FOR USE OF THE HOME AS AN ASSISTED LIVING HOME OR ADULT FOSTER HOME; AND

(B) FOR AN ASSISTED LIVING HOME SERVING 11 OR MORE RESIDENTS, NOT LESS THAN \$1,000,000 AGGREGATE PER ACCIDENT OF BODILY INJURY LIABILITY INSURANCE, AND NOT LESS THAN \$1,000,000 AGGREGATE PER INCIDENT OF PROFESSIONAL LIABILITY INSURANCE].

(b) The governing body of a home operated by an association, corporation, or other entity shall

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(3) maintain minutes of meetings, relevant portions of which must be made available to the **department** [LICENSING AGENCY] to enable the **department** [LICENSING AGENCY] to carry out its responsibilities under AS 47.33 and this chapter.

• • • •

(d) Subject to (e) of this section, an assisted living home shall

(1) have on duty a care provider or another employee with documented proof of

(A) cardiopulmonary resuscitation (CPR) training provided within the previous two years by an instructor certified as required in 7 AAC 26.985; the training must be provided through the

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(iii) an organization equivalent to those listed in (i)-(ii) of this subparagraph, as determined by the **department** [LICENSING AGENCY]; and

(B) first aid training provided within the previous three years by an instructor certified by the American Red Cross, the American Heart Association, or an equivalent organization as determined by the **department** [LICENSING AGENCY]; and

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011**  
AS 47.33.070

AS 47.33.410

AS 47.33.920

7 AAC 75.215(b)(8) and (e) are amended to read:

**7 AAC 75.215. Criminal background check requirements.**

(b) For purposes of AS 47.33.100(c), the following are offenses covered by AS 47.33.100:

• • • •

(8) a crime listed in this paragraph, unless the person provides written proof satisfactory to the **department** [LICENSING AGENCY] that the following period of time has elapsed since the imposition of the sentence, period of commitment to the custody of the **department** [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], or unconditional discharge, whichever is longer, and that the person has fully complied with any orders for counseling or treatment issued by the court or by a probation or parole authority:

(A) for a class B felony that is not included in (1) - (7) of this subsection, 10 years;

(B) for the following crimes, five years:

(i) a Class C felony under AS 11 that is not included in (3) – (6) of this subsection; or

(ii) a Class C felony under AS 28.35.030(n) (two or more convictions **since January 1, 1996**, within **10 years preceding the date of the present offense** [PREVIOUS FIVE YEARS] for operating a vehicle, aircraft, or watercraft while intoxicated);

(C) for a crime involving domestic violence that is not included in (A) or (B) of this paragraph, and for a crime under AS 47.30.815 (wilful initiation of an involuntary civil commitment procedure without having good cause), two years.

(e) The results of the name-check criminal background investigation and the national criminal history record check required by AS 47.33.100 and (d) of this section are subject to the **department's** [LICENSING AGENCY'S] review and

(1) for an employee other than an administrator, must be placed in the employee's file at the assisted living home; and

(2) for an administrator, must be submitted to the **department** [LICENSING AGENCY] and placed in the administrator's file at the assisted living home.

(Eff. 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 Sec. 4, ch. 35, SLA 1996  
AS 47.33.100 AS 47.33.920

7 AAC 75.220(c), (d), and (e)(3) and (4) are amended to read:

**7 AAC 75.220. General requirements.**

(c) A person who will be in direct contact with residents in an assisted living home shall provide evidence to the administrator that the person is free from active pulmonary tuberculosis before contact with a resident. This evidence must be provided annually and must be placed in the person's file for review by the **department** [LICENSING AGENCY].

(d) Before hiring, the administrator shall ensure that each person who will be in direct, unsupervised contact with residents in an assisted living home has sufficient language skills to meet the needs of the residents of the home and the ability to access emergency services, including giving clear directions to emergency personnel of the home's location and describing the nature of the emergency in the primary language of the community. The administrator shall assess language skill level for employees, contractors, and volunteers. The **department** [LICENSING AGENCY] will assess the language skill level of the administrator.

(e) Each administrator, each administrator designee who will serve in that capacity for 90 consecutive days or longer, and each care provider who is an employee of an assisted living home shall participate in continuing education that is relevant to that person's primary job responsibilities and the ongoing care of residents. If courses for continuing education are not available within 100 miles of where the home is located or through correspondence or distance learning, the administrator shall ensure that the continuing education is obtained not less than every 18 months. Training requirements are as follows:

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(3) a home may count in-service training as continuing education if that training increases the knowledge, abilities, or skills of care providers and is approved by the **department** [LICENSING AGENCY];

(4) continuing education, whether in-service training or received from a state agency, a seminar, or a university, must be documented and placed in the employee's personnel file for review and approval by the **department** [LICENSING AGENCY]. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011**  
AS 47.33.100

AS 47.33.410

AS 47.33.920

The lead-in to 7 AAC 75.230(c) and (c)(1)(D) are amended to read:

**7 AAC 75.230. Administrator.**

(c) In addition to the other requirements of this chapter, an individual may not serve as an administrator of an assisted living home unless the individual meets the training and experience requirements of this subsection. The **department** [LICENSING AGENCY] will accept a baccalaureate or higher degree in gerontology, health administration, or another health-related field in place of all or part of the required experience, if the degree work serves, to the **department's** [LICENSING AGENCY'S] satisfaction, as an equivalent to the required experience. Training and experience requirements are as follows:

(1) for a home licensed to serve 1-10 residents, the individual must fulfill at least one of the following requirements:

• • • •

(D) the individual must have sufficient documented experience in an out-of-home care facility, and sufficient training, education, or other similar experience to fulfill the duties of an administrator of the type and size of home where the individual is to be employed and to meet the needs of the population of residents to be served; an administrator under this subparagraph is subject to **department** [LICENSING AGENCY] approval on a case-by-case basis; for purposes of this subparagraph, an out-of-home care facility includes a foster care home, a board and care home, and a nursing home;

(Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011**  
AS 47.33.100

AS 47.33.410

AS 47.33.920

7 AAC 75.240(b) is amended to read:

**7 AAC 75.240. Care provider.**

(b) An administrator shall ensure and document that each care provider is oriented to the assisted living home's policies and procedures, **including those required under 7 AAC 75.210(a)(3), and any other policies and procedures developed under AS 47.33 or this chapter that would be relevant under this subsection.** Orientation under this subsection must include orientation to emergency procedures, fire safety, resident rights, universal precautions for infection control, biohazards, applicable state regulations and statutes, resident interaction, any house rules established under AS 47.33.060, sanitation, duties and responsibilities, medication management and security, physical plant layout, and reporting responsibilities. Unless a care provider has sufficient documented experience working with the population of residents to be served, the care provider shall work under the direct supervision of the administrator or an experienced care provider who is at least 21 years of age for not less than three complete work days before caring for a resident without direct supervision. Direct supervision must be documented in the personnel file of the supervised care provider.

(Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	<b><u>AS 47.24.011</u></b>	AS 47.33.100	AS 47.33.920
	AS 47.33.010	AS 47.33.410	

7 AAC 75.265(c) is amended to read:

**7 AAC 75.265. Food service.**

(c) An assisted living home shall keep a written record of each day's menu, document whether the meals served were as described in those menus, and keep the documented menus on file for at least one year for review by the **department** [LICENSING AGENCY].

(Eff. 9/28/2001, Register 159; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	<b><u>AS 47.24.011</u></b>	AS 47.33.410	AS 47.33.920
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7 AAC 75.270(b), (c), (e)(1) and (3), (f), (h), and (i) are amended to read:

**7 AAC 75.270. Safety and evacuation requirements.**

(b) The **department** [LICENSING AGENCY] may inspect an assisted living home to determine whether

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(c) An assisted living home must have a disaster preparedness and emergency evacuation plan approved by the **department** [LICENSING AGENCY]. The plan must provide for

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(e) Before a license will be issued under AS 47.33 and this chapter, an assisted living home seeking to be licensed for six or more residents must

(1) meet the standards for life and safety specified in 13 AAC 50 and 13 AAC 55; all information required by those standards shall be kept available for inspection by the **department** [LICENSING AGENCY];

• • • •

(3) obtain a fire safety inspection report from each state or municipal authority responsible for those inspections, and continue to obtain these reports every two years, or more often if required by a state or municipal authority; the **department** [LICENSING AGENCY] will submit a request for inspection to the state or municipal authority on the home's behalf; the home is responsible for any fee charged by the state or municipal authority for the inspection.

(f) The **department** [LICENSING AGENCY] may inspect, or require a self-monitoring report on a safety issue of, an assisted living home licensed for fewer than six residents, with consideration given to prevailing community residential standards, to determine whether the home is built and maintained in a manner protective of life, health, and safety, with respect to the residents' bedrooms, exit to the outside of the building, operational smoke detectors or fire extinguishers, the storage and disposition of combustible waste material, and portable heating mechanisms. Submitting a false report under this subsection is grounds for issuing a notice of violation under AS 47.33.530.

• • • •

(h) An assisted living home licensed for fewer than six residents shall make and retain a record of each required evacuation drill and make the record available to the **department** [LICENSING AGENCY] upon request. The record must include the time, date, and critique of the drill, the personnel who participated, the names of residents who did and did not participate, the reasons for non-participation, and the amount of time required to complete the drill. Emergency evacuation drills may be postponed during severe weather, but residents must be instructed on emergency evacuation procedures.

(i) If the **department** [LICENSING AGENCY] determines that it is necessary, the **department** [AGENCY] will request an advisory inspection report from one or more state or municipal building or fire safety authorities for a home licensed for fewer than six residents. The home is responsible for any fee charged by the state or municipal authority for the inspection. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011**

AS 47.33.410

AS 47.33.920

7 AAC 75.280(a)(1), (b), and (d) are amended to read:

**7 AAC 75.280. Sanitation and environmental protection.** (a) An assisted living home licensed for

(1) six or more residents must satisfy applicable state and municipal standards for sanitation and environmental protection and ensure that the home is inspected at least every two years by each state or municipal authority responsible for these inspections; a copy of each inspection report must be maintained for at least two years and made available for review by the **department** [LICENSING AGENCY]; the **department** [LICENSING AGENCY] may submit a request for inspection to the state or municipal authority on the home's behalf; the home is responsible for any fee charged by the state or municipal authority for the inspection; or

• • • •

(b) The **department** [LICENSING AGENCY] may inspect an assisted living home licensed for fewer than six residents to determine, with consideration given to prevailing community residential standards, whether the home is clean and maintains satisfactory levels of sanitation and environmental protection. As part of an inspection, the **department** [LICENSING AGENCY] will determine whether the home has

• • • •

(d) If the **department** [LICENSING AGENCY] determines that it is necessary, the **department** [AGENCY] will request an advisory inspection report from one or more state or municipal sanitation or public health authorities. The home is responsible for any fee charged by the state or municipal authority for the inspection. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.290(a)(2) is amended to read:

**7 AAC 75.290. Emergency situations.** (a) If a resident experiences a medical emergency, serious injury, or accident, is involved in assaultive behavior that could injure the resident or another person or that requires police intervention, or is absent without prior notice to the home and could pose a risk of harm to the resident or others, the assisted living home shall

• • • •

(2) record the date, time, and circumstances of the accident, serious injury, medical emergency, or incident in the resident's file and in any general daily log kept by the home, and provide a copy of the report to the **department** [LICENSING AGENCY] as required under 7 AAC 75.340.

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.295(a), (c)(3)(C), and (d) are amended to read:

**7 AAC 75.295. Use of intervention and physical restraint.** (a) An assisted living home must have a written procedure regarding the use of physical restraint. That procedure must be approved by the **department** [LICENSING AGENCY] under AS 47.33.330.

• • • •

(c) At the time of a resident's admission to the home, the home shall

• • • •

(3) address the need for using time outs or physical restraint in the resident's assisted living plan if the home has reason to believe that time outs or physical restraint may be necessary because the resident's prior behavior or medical condition indicates that the resident may occasionally present an imminent danger to the resident or others; the plan must include information regarding

• • • •

(C) any prenotification procedures requested by the resident's representative **in addition to** [IF] the 24-hour notice required by (d)(1) of this section **or the five-day written report required under (d)(2) of this section** [IS UNSATISFACTORY TO THE REPRESENTATIVE].

(d) If physical restraint is used, the assisted living home shall

(1) notify the resident's representative

**(A) before physical restraint is used, if prenotification is made a part of the resident's assisted living plan under (c)(3)(C) of this section; and**

**(B)** within 24 hours, unless the representative has agreed, as reflected in the resident's assisted living plan, that notification under (2) of this subsection is sufficient; and

(Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.305 is amended to read:

**7 AAC 75.305. Determination regarding declarations for mental health treatment.**

An assisted living home [LICENSED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] shall make a reasonable effort to determine whether a resident has made a declaration of preferences or instructions regarding mental health treatment under AS 47.30.950 by consulting with the resident, the resident's primary physician, the resident's case manager, the resident's spouse, parent, or guardian, a person in the resident's household, a person designated by the resident, or the resident's representative. (Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

7 AAC 75.320 is amended to read:

**7 AAC 75.320. Annual monitoring report.** (a) At least once each year, the **department** [LICENSING AGENCY] will monitor an assisted living home or will require the home to submit a self-monitoring report to the **department** [LICENSING AGENCY] on a form supplied by the **department** [AGENCY]. The annual report must contain the information requested by the **department** [AGENCY], to show that the home continues to comply with AS 47.33 and this chapter.

(b) The failure to submit an annual report as required by the **department** [LICENSING AGENCY], or the submission of a false report, is grounds for issuance of a notice of violation under AS 47.33.530.

(c) The **department** [LICENSING AGENCY] may accept the report of a third-party, independent evaluation of an assisted living home, made on behalf of the home, if the report contains substantially the same information required by the **department** [LICENSING AGENCY] under this section. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

The lead-in language of 7 AAC 75.340(a), (a)(1)(D), (a)(4), (b) is repealed, the lead-in language of (c), and (c)(2) are amended to read:

**7 AAC 75.340. Notification requirements.** (a) An assisted living home shall provide, on a form supplied by the **department** [LICENSING AGENCY], written notice to the **department** [LICENSING AGENCY], to each affected resident or that resident's representative, and to any service coordinator, as follows:

(1) within 24 hours or on the next business day if

• • • •

(D) physical restraint is used under 7 AAC 75.295; notification under this subparagraph shall be provided only to the resident's representative; notification under this subparagraph need not be made if the resident's assisted living plan indicates that [(i) PRENOTIFICATION IS REQUIRED AS ESTABLISHED UNDER 7 AAC 75.295(c)(3)(C); OR (ii)] notification under (4) of this subsection is sufficient as established under 7 AAC 75.295(d)(1); **notice must be given under this subparagraph or under (4) of this subsection even if prenotification is required under 7 AAC 75.295(c)(3)(C);**

• • • •

(4) within five days if physical restraint is used under 7 AAC 75.295 unless a shorter time is provided in a resident's assisted living plan in accordance with 7 AAC 75.295(c); **notice must be given as required under (1)(D) of this subsection or under this paragraph even if prenotification is required under 7 AAC 75.295(c)(3)(C);** the notice must include the information required by 7 AAC 75.295(d);

• • • •

(b) Repealed \_\_\_\_/\_\_\_\_/200\_\_ [AN ASSISTED LIVING HOME SHALL REQUEST A VARIANCE UNDER 7 AAC 75.410 – 7 AAC 75.490 IF THE HOME CANNOT MEET AN APPLICABLE REQUIREMENT OF AS 47.33 OR THIS CHAPTER].

(c) An assisted living home shall notify the **department** [LICENSING AGENCY], in writing, before taking an action that requires

• • • •

(2) a request for **department** [LICENSING AGENCY] approval of a modification to increase resident capacity; or

(Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920  
AS 47.33.080

### Article 3. Variances.

7 AAC 75 is amended by adding a new section to read:

**7 AAC 75.405. Request for variance.** Subject to 7 AAC 75.410(b) and (c), an assisted living home shall request a variance under 7 AAC 75.410 – 7 AAC 75.490 if the home cannot meet an applicable requirement of AS 47.33 or this chapter. (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.040 AS 47.33.410 AS 47.33.920  
AS 47.33.100

**Editor's note:** The substance of 7 AAC 75.405 was formerly located at 7 AAC 75.340(b). The history note does not reflect the history of the earlier regulation.

The lead-in language of 7 AAC 75.410(a), (b), and the lead-in language of (c) are amended to read:

**7 AAC 75.410. Grounds for variance.** (a) Subject to (b) and (c) of this section, the **department** [LICENSING AGENCY] may grant an assisted living home a temporary or permanent variance from a requirement of AS 47.33 or this chapter to allow the home to

• • • •

(b) The **department** [LICENSING AGENCY] will not grant a variance unless the terms of the variance adequately protect the health and safety of the residents of the home.

(c) The **department** [LICENSING AGENCY] will not grant a variance

• • • •

(Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	<b><u>AS 47.24.011</u></b>	AS 47.33.100	AS 47.33.920
	AS 47.33.040	AS 47.33.410	

7 AAC 75.415(3) is amended to read:

**7 AAC 75.415. Temporary variance to admit a child for care in an assisted living home.** An assisted living home may apply for a temporary variance to admit a specific child by name for care if the home and a referring agency, in addition to meeting all other requirements of 7 AAC 75.410 – 7 AAC 75.450, develop a plan of safety that

• • • •

(3) is approved by the **department** [LICENSING AGENCY], by the child's representative, and by each resident of the home or the representative for each resident. (Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 47.33.410	AS 47.33.920
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7 AAC 75.420(a)(2)(B) and (b) – (d) are amended to read:

**7 AAC 75.420. Application for variance, generally.** (a) An applicant for a variance shall deliver to each resident of the home, or the resident's representative, no later than five days after filing an application for a variance, a

• • • •

(2) notice that states

• • • •

(B) the date by which a resident's comments on the application must be received by the **department** [LICENSING AGENCY].

(b) An applicant for a variance shall provide to the **department** [LICENSING AGENCY] a statement indicating that the applicant has complied with (a) of this section.

(c) The **department** [LICENSING AGENCY] will consider the comments received from residents or their representatives in determining whether to grant an application for a temporary or permanent variance.

(d) If the **department** [LICENSING AGENCY] has approved a plan of correction following a notice of violation under AS 47.33.530, the home may operate under the plan without having to submit an application for a temporary variance. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:     **AS 47.24.011**                      AS 47.33.410                      AS 47.33.920

The lead-in language of 7 AAC 75.430 is amended to read:

**7 AAC 75.430. Application for temporary variance.** An assisted living home shall apply for a temporary variance in the manner that the **department** [LICENSING AGENCY] directs. The application must state the

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(Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:     **AS 47.24.011**                      AS 47.33.920

The lead-in language of 7 AAC 75.440 is amended to read:

**7 AAC 75.440. Evaluation of application for temporary variance.** The department [LICENSING AGENCY] will evaluate each application for a temporary variance by

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(Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.920

The lead-in language of 7 AAC 75.450(a), (b), (c), and (e) are amended to read:

**7 AAC 75.450. Grant or denial of temporary variance.** (a) The department [LICENSING AGENCY] may grant a temporary variance, for a period not to exceed one year, if it determines that the home

• • • •

(b) The department [LICENSING AGENCY] will issue a written decision on an application for a temporary variance and will deliver a copy of the decision to the applicant, personally or by certified mail, and to each resident, or representative of the resident, of the home.

(c) A decision by the department [LICENSING AGENCY] to grant a temporary variance will state the duration of the variance and the steps that the home must take to bring the home into compliance before the variance expires.

• • • •

(e) A decision by the department [LICENSING AGENCY] to deny a temporary variance will state the reasons for the denial. The affected home may reapply for a temporary variance, addressing the department's [AGENCY'S] stated reasons for the denial. In the alternative, the home may apply for a permanent variance under 7 AAC 75.460. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920  
AS 47.33.400

The lead-in language of 7 AAC 75.460 is amended to read:

**7 AAC 75.460. Application for permanent variance.** An assisted living home shall apply for a permanent variance in the manner that the department [LICENSING AGENCY] directs. The application must state

• • • •

(Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.920

The lead-in language of 7 AAC 75.470 is amended to read:

**7 AAC 75.470. Evaluation of application for permanent variance.** The department [LICENSING AGENCY] will evaluate each application for a permanent variance by

• • • •

(Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.920

The lead-in language of 7 AAC 75.480(a), and (b) – (f) are amended to read:

**7 AAC 75.480. Grant or denial of permanent variance.** (a) The department [LICENSING AGENCY] may grant a permanent variance if it determines

• • • •

(b) The department [LICENSING AGENCY] will issue a written decision on an application for a permanent variance and will deliver a copy of the decision to the applicant, personally or by certified mail, and to each resident of the home or the resident's representative.

(c) Upon granting a permanent variance, the department [LICENSING AGENCY] will issue a new license containing a description of the permanent variance.

(d) A permanent variance remains in effect for the duration of the license and will be incorporated into each license renewal, unless the department [LICENSING AGENCY] finds good cause to revoke the variance.

(e) The department [LICENSING AGENCY] may include in its decision to grant a permanent variance reasonable conditions on the variance.

(f) The department [LICENSING AGENCY] will include in its decision to deny a permanent variance the reasons for the denial. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920  
AS 47.33.400

7 AAC 75.490(b) is amended to read:

**7 AAC 75.490. Appeal from denial of variance.**

(b) If the applicant decides to contest the denial, the applicant must appeal to the department, in writing, within 30 days after receiving the denial [, TO THE DIRECTOR OF THE DIVISION OF SENIOR SERVICES IN THE DEPARTMENT OF ADMINISTRATION OR THE DIRECTOR OF THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DEPENDING UPON WHICH AGENCY DENIED THE APPLICATION]. In the appeal petition, the applicant may request an oral hearing. If an oral hearing is not requested, the appeal will be decided on the basis of review of the original record and whatever additional documents and written argument the applicant presents with the appeal petition. The denial under 7 AAC 75.450 or 7 AAC 75.480 serves as the statement of issues under AS 44.62.370. [THE DECISION OF THE RESPECTIVE DIRECTOR CONSTITUTES THE DECISION OF THE LICENSING AGENCY FOR THE PURPOSES OF RECONSIDERATION, UNDER AS 44.62.540, AND JUDICIAL REVIEW, UNDER AS 44.62.560.] (Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.560 AS 47.33.920

**Article 4. Violations.**

7 AAC 75.510(a) is amended to read:

**7 AAC 75.510. Violation conference.** (a) At any time after an assisted living home has received a notice of violation under AS 47.33.530, the home or the **department** [LICENSING AGENCY] may request a conference to discuss the violation and the home's options for correcting the violation. A conference, conducted in person or by telephone, will be held no later than seven days after the request is made.

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.33.410 AS 47.33.550 AS 47.33.920  
AS 47.33.540

7 AAC 75.520 is amended to read:

**7 AAC 75.520. Report of compliance in response to notice of violation.** (a) Upon correction of a violation described in a notice of violation, an assisted living home shall, within 10 days after correcting the violation, submit to the **department** [LICENSING AGENCY] a written report of compliance. The **department** [LICENSING AGENCY] may provide a copy of the report or require the home to provide a copy of the report to each resident of the home or to each resident's representative. The report of compliance must be signed by the administrator of the home and must contain a statement in which the administrator attests to the truth of the contents of the report.

(b) A report of compliance must state how the home corrected each violation listed in the notice of violation.

(c) A report of compliance is a public record. The **department** [LICENSING AGENCY] will retain it with the notice of violation to which it refers.

(d) The **department** [LICENSING AGENCY] may reinspect the home within 30 days after receiving a report of compliance, upon consideration of the nature of the violation and the terms of correction. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.540 AS 47.33.920  
AS 47.33.410

7 AAC 75.530 is amended to read:

**7 AAC 75.530. Violation constituting an emergency.** (a) Subject to (c) of this section, if [IF] the department [LICENSING AGENCY] determines that a violation cited by the department [AGENCY] in a notice of violation issued under AS 47.33.530 constitutes an emergency because of imminent danger [THREAT] to the health or safety of residents, the department will [LICENSING AGENCY]

(1) issue the [WILL , IN THE] notice of violation within 24 hours after determining that an emergency exists; the notice will [,] state the nature of the emergency, the actions required to comply with AS 47.33 and this chapter, and a specific date and time for the home to correct the violation; and

(2) [WILL] determine whether the violation has been corrected within the date and time specified in the notice.

(b) An assisted living home subject to a notice of violation constituting an emergency shall post the notice in a conspicuous location at the home until the department [LICENSING AGENCY] has determined that the violation has been corrected.

(c) If the department determines that the nature of the emergency described in (a) of this section warrants immediate closure of the assisted living home, the department will issue a notice of administrative sanction as required under AS 47.33.550(c). The notice will

(1) state that home must be closed immediately under authority of AS 47.33.550(e), pending the outcome of any hearing requested under AS 47.33.550(d); and

(2) be distributed as required by AS 47.33.550(h). (Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.550 AS 47.33.920

7 AAC 75.540(a)(1) is amended to read:

**7 AAC 75.540. Temporary inability to correct a violation constituting an emergency.** If an assisted living home is temporarily unable to correct a violation constituting an emergency, the home shall

(1) notify the department [LICENSING AGENCY] of the inability to correct the violation, submit a plan of correction indicating the time required to complete the correction, and submit a plan for alternative care arrangements to be used by the home until the violation is corrected; and

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

The lead-in language for 7 AAC 75.550 and (2)(D) are amended to read:

**7 AAC 75.550. Failure [REFUSAL] to correct a violation constituting an emergency.** If an assisted living home [REFUSES, OR] fails [FOR REASONS OTHER THAN INABILITY,] to correct a violation constituting an emergency within the date and time specified in the notice of violation, [AND THE LICENSING AGENCY DETERMINES THAT THE HOME HAS THE ABILITY TO CORRECT THE VIOLATION], the department [LICENSING AGENCY] will

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(2) provide notice as required by 7 AAC 75.340 that an emergency exists and the violation has not been corrected to

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(D) the department's adult protective services program [IN THE DEPARTMENT OF ADMINISTRATION, DIVISION OF SENIOR SERVICES].  
(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.33.410 AS 47.33.920

7 AAC 75.560 is amended to read:

**7 AAC 75.560. Sanctions based on conviction of administrator.** If the criminal conviction of an assisted living home administrator forms the basis of a possible administrative sanction against the home under AS 47.33.550 and 7 AAC 75.570, the **department** [LICENSING AGENCY] will take into consideration whether the conviction poses a risk to residents or has an adverse effect on the safety or effective operation of the home. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

The lead-in language of 7 AAC 75.570(a), (a)(4) and (5), and (b) are amended to read:

**7 AAC 75.570. Sanctions for noncompliance.** (a) The **department** [LICENSING AGENCY] will consider the following factors in determining an administrative sanction under AS 47.33.550:

• • • •

(4) whether the home failed to provide records to the **department** [LICENSING AGENCY] upon request; and

(5) whether the home has submitted false or fraudulent information to the **department** [LICENSING AGENCY].

(b) If the **department** [LICENSING AGENCY] imposes an administrative sanction, the administrator may appeal that action as described in AS 47.33.550. (Eff. 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

**Article 5. General Provisions.**

7 AAC 75.990 is amended by adding new paragraphs, and 7 AAC 75.990(10) is repealed, as follows:

**NOTE:** At adoption, the department will repeal and readopt this section to retain alphabetical order of the definitions.

**7 AAC 75.990. Definitions.** In AS 47.33 and this chapter, unless the context requires otherwise,

• • • •

**( ) “department” means the Department of Health and Social Services;**

**( ) “imminent danger to the health or safety of residents” means a situation that is likely to cause, serious injury, harm, impairment, or death to one or more residents of an assisted living home;**

• • • •

(10) repealed \_\_\_\_/\_\_\_\_/200\_\_\_. ["LICENSING AGENCY" HAS THE MEANING GIVEN IN AS 47.33.990;]

(Eff. 7/1/95, Register 134; am 4/6/2002, Register 162; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: **AS 47.24.011** AS 47.33.410 AS 47.33.920

## Part 6. Miscellaneous.

## Chapter 80. Fees for Department Services.

## Article 3. Alcohol Safety Action Program Services.

7 AAC 80.200 is amended to read:

**7 AAC 80.200. Applicability.** An alcohol safety action program (**ASAP**) provides alcohol **and substance abuse** screening, **referral, and monitoring** [AND CASE MANAGEMENT] of persons **who are required to participate in an ASAP by a court or another agency authorized to require that participation** [ORDERED BY A COURT TO UNDERGO ALCOHOL SCREENING, EDUCATION, OR REHABILITATION]. The provisions of 7 AAC 80.210 - 7 AAC 80.230 apply to **an ASAP** [ALL ALCOHOL SAFETY ACTION PROGRAMS DIRECTLY] operated by the department **or by a contractor or grantee that provides ASAP services**. (Eff. 7/16/89, Register 111; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 44.29.020	<b><u>AS 44.29.024</u></b>	AS 47.37.040 [(14)]
	AS 44.29.022	AS 47.05.010	

7 AAC 80.210 is amended to read:

**7 AAC 80.210. Fee schedule.** The **fees** [FEE] for **ASAP** [ALCOHOL SAFETY ACTION PROGRAM] services **described in 7 AAC 80.200 are as follows:**

**(1) for a person who is required to participate in a juvenile ASAP:**

**(A) an initial assignment fee of [IS] \$100 for each new [COURT] case opened by an ASAP for that person, payable to the ASAP that provides the initial assignment services; and**

**(B) a reassignment fee of \$50 for each additional assignment related to each case, payable to the ASAP that provides the reassignment services;**

**(2) for a person who is required to participate in an adult ASAP:**

**(A) an initial assignment fee of \$200 for each new case opened by an ASAP for that person, payable to the ASAP that provides the initial assignment services; and**

**(B) a reassignment fee of \$100 for each additional assignment related to each case, payable to the ASAP that provides the reassignment services.**

(Eff. 716/89, Register 111; am 4/28/94, Register 130; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 44.29.020      **AS 44.29.024**      AS 47.37.040 [(14)]  
AS 44.29.022      AS 47.05.010

7 AAC 80.220 is amended to read:

**7 AAC 80.220. Collection procedure.** (a) The **ASAP** [ALCOHOL SAFETY ACTION PROGRAM] staff shall collect **a** [THE] fee **required under 7 AAC 80.210** at the time [THAT] services are rendered, except that the department **may** [WILL, IN ITS DISCRETION,] implement a billing system if prepayment of the fee would impose a hardship on a client or the client's family.

**(b) Unless the department grants a waiver under 7 AAC 80.230, an ASAP will not provide verification of a person's completion of the services provided by the ASAP until that person has paid any fee required under 7 AAC 80.210.** (Eff. 716/89, Register 111; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 44.29.020      **AS 44.29.024**      AS 47.37.040 [(14)]  
AS 44.29.022      AS 47.05.010

7 AAC 80.230 is amended to read:

**7 AAC 80.230. Public interest waiver.** (a) The department may [WILL, IN ITS DISCRETION,] waive a fee for an ASAP [ALCOHOL SAFETY ACTION PROGRAM] service if the commissioner determines that collecting the fee will interfere [INTERFERES] with the provision of services.

(b) No person will be denied ASAP services because of nonpayment of fees.

(c) Unless payment is ordered by a [THE] court, the department will not consider the failure to pay the fee as noncompliance with the program. (Eff. 716/89, Register 111; am \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority:	AS 44.29.020	<u>AS 44.29.024</u>	AS 47.37.040 [(14)]
	AS 44.29.022	AS 47.05.010	